

## **AGENDA**

### **BOARD OF MAYOR AND ALDERMEN**

**January 4, 2005**

**7:30 PM  
Aldermanic Chambers  
City Hall (3<sup>rd</sup> Floor)**

1. Mayor Baines calls the meeting to order.
2. The Clerk calls the roll.
3. Presentation to be made by Mayor Baines to Mr. Raymond Provencher.
4. Update from Bruce Berke, Lobbyist, regarding 2005 Legislative Session.
5. Presentation to be made by Robert MacKenzie, Director of Planning, regarding the Shoreline Protection Act.

### **CONSENT AGENDA**

6. Mayor Baines advises if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

### **Accept BMA Minutes**

- A. Minutes of meetings held on September 7, 2004 (two meetings); October 5, 2004 (two meetings); and November 3, 2004.  
*(Note: available for viewing at the Office of the City Clerk and forwarded under separate cover to Mayor and Aldermen.)*

## **REFERRALS TO COMMITTEES**

### **COMMITTEE ON BILLS ON SECOND READING**

- B.** Ordinance amending Section 33.027 Employee Recruitment and Selection (F) submitted by Aldermen Garrity and Porter.
- C.** Ordinance amending Chapter 90: Animals, Section 90.11 License Required submitted by Deputy City Clerk Johnson.
- D.** “Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A.”

### **COMMITTEE ON FINANCE**

- E.** Resolution:

“Authorizing the Finance Officer to effect a transfer of Five Thousand Dollars (\$5,000.00) from Contingency to Management Services.”

## **REPORTS OF COMMITTEES**

### **COMMITTEE ON LANDS AND BUILDINGS**

- F.** Recommending that certain property known as West Haven Road, Map 922, Lot 39-A, be found surplus to City needs and that the Mayor be authorized to dispose of same subject to conditions as follows:

The Committee recommends that the City execute a purchase and sales agreement with Dennis Traynor and Diane Traynor of 139 Mayflower Drive and Harold Bradley of 20 Robin Hill Road. Terms of said purchase and sales agreement to include the city attaining approval of the subdivision of said property, approval of consolidation of property with abutters lots, and reimbursements of costs to the City by the purchasers at a price not to exceed \$3,000.

The Committee notes that said property was acquired by Tax Collector's Deed dated January 16, 1991 and recorded in the Hillsborough Country Registry of Deeds on January 21, 1991 Book 5234, Page 1626. The Board of Assessors concur that the above noted disposition reflects a reasonable value and the Planning Director has provided a report as contained herein. The Committee notes that it finds just cause to sell said property to the abutters as said parcel is considered residual/unbuildable, serves no practical public purpose other than to the abutters, is presently a liability to the City as a waste disposal site and property shall be placed back on the tax roles as a result of property transfer.

The Committee further recommends that the Highway Department, Planning Department and City Solicitor be authorized and directed to carry out process and transfer of said parcel, and that the Finance Director be authorized to credit tax deed accounts as may be appropriate upon final transfer of said property.

**LADIES AND GENTLEMEN, HAVING READ THE CONSENT AGENDA, A MOTION WOULD BE IN ORDER THAT THE CONSENT AGENDA BE APPROVED.**

7. Nominations to be presented by Mayor Baines, if available.
8. A motion is in order to recess the regular meeting to allow the Committee on Finance to meet.
9. Mayor Baines calls the meeting back to order.

### **OTHER BUSINESS**

10. Report of the Committee on Finance, if available.  
**Ladies and Gentlemen, what is your pleasure?**
11. Communication from the Board of Assessors requesting authorization to execute a contract with Vision Appraisal Technology noting that additional funding will be required to complete the 2006 citywide revaluation.  
**Ladies and Gentlemen, what is your pleasure?**
12. Communication from the Police Chief Jaskolka seeking authorization to fill four Police Officer and one Police Sergeant vacancies by February 28, 2005 in order to meet the April 2005 Police Standards and Training Council Police Academy and to adjust their budget accordingly to meet the requirements of new hires.  
**Ladies and Gentlemen, what is your pleasure?**
13. Resolution: **(A motion is in order to read by title only.)**

“Authorizing the Finance Officer to effect a transfer of Five Thousand Dollars (\$5,000.00) from Contingency to Management Services.”

**A motion is in order that the Resolution pass and be Enrolled.**

### **TABLED ITEMS**

**A motion is in order to remove any of the following items from the table for discussion.**

14. Report of the Committee on Traffic/Public Safety recommending that Ordinance:  
    “Amending Section 70.57(A) Parking Rates of the Code of Ordinances of the City of Manchester by increasing the monthly parking garage rates.”  
    providing for increase of parking garage rates from \$65.00 monthly to \$70.00 monthly, as enclosed herein, be adopted with an effective date of January 1, 2005.  
    *(Tabled 11/16/2004 at the request of Alderman Guinta.)*

15. Report of the Committee on Lands and Buildings recommending that in accordance with RSA 80:80 the Mayor be authorized to dispose of certain property situated at Francis Street, known as Map 0861, Lot 0025-N by executing deeds relating all rights, title interest, or claims in said property. Said property formerly owned by Francisco F. Jardine was acquired by the City of Manchester by virtue of Tax Collector's deed dated September 2, 1943 and recorded in Hillsborough County Registry of Deeds on September 9, 1943, Volume 1051, Page 0369.

The Committee recommends that said property be disposed of through public auction with a minimum bid to be set at \$14,000.

The Committee advises that it has found such property to be surplus to City needs; and that the Board of Assessors has provided an opinion of value in the range of \$20,000-\$40,000.

The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition and prepare such documents as may be required, and that the Finance Officer be authorized to credit tax deeded accounts as deemed necessary.

*(Tabled 12/21/2004 pending updated communication from Assessor, and results of the 01/06/2005 Zoning Board of Adjustment hearing.)*

## 16. NEW BUSINESS

- a) Communications
- b) Aldermen

17. If there is no further business, a motion is in order to adjourn.

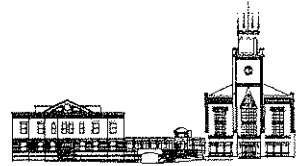


Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Millyard Design Review Committee

December 28, 2004

Honorable Board of Mayor and Aldermen  
City Hall  
One City Hall Plaza  
Manchester, New Hampshire 03101

*re: Shoreland Protection Act*

Honorable Board Members:

As requested by the Board, I would like to take a few minutes to provide a brief presentation on the Shoreland Protection Act at your next meeting.

If you have any questions, please feel free to contact me.

Sincerely,

Robert S. MacKenzie, AICP  
Director of Planning & Community Development

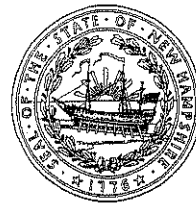
One City Hall Plaza, Manchester, New Hampshire 03101  
Phone: (603) 624-6450 FAX: (603) 624-6529  
E-mail: [planning@ci.manchester.nh.us](mailto:planning@ci.manchester.nh.us)  
[www.ci.manchester.nh.us](http://www.ci.manchester.nh.us)

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State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2147 FAX (603) 271-6588



November 1, 2004

TO: Municipal Officials (Town Clerk, Code Enforcement Officer, Board of Selectmen,  
Zoning Board of Adjustment, Conservation Commission, et al)

RE: Comprehensive Shoreland Protection Act – RSA 483-B

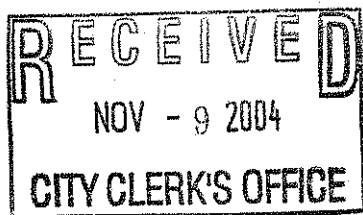
Dear Municipal Official:

The Department of Environmental Services (DES) has received many inquiries as to the proper interpretation and application of the provisions contained within the Comprehensive Shoreland Protection Act, RSA 483-B ("the Act"). Because the Act has been amended several times in the past few years, a copy of the current version of the Act is enclosed for your reference. In addition, DES recently sought advice from the Attorney General's Office on several issues relating to the Act. A copy of the Opinion of the Attorney General dated September 2, 2004 is also enclosed for your reference. Based upon that advice and the Department's experience in interpreting and enforcing the Act, this letter has been prepared to provide clarification on some of the provisions and common misconceptions relative to the Act.

1. THE ACT APPLIES TO LOCAL PERMITTING DECISIONS

*All municipal permitting officials should be familiar with the Act.* Under the Act, "local permits for work within the protected shoreland shall be issued **only when consistent** with the policies of this chapter." (RSA 483-B:3, with emphasis added). Thus, the Act applies to *every* permitting decision made by *every* municipality in the state with respect to a project within the protected shoreland. The protected shoreland is defined as those areas within 250 feet of a public waterbody such as coastal waters, a great pond, or major streams and rivers that are not designated under the Rivers Management and Protection Act.

The only shoreland work to which the Act does not apply is work in a municipality that has adopted a shoreland protection ordinance that has been **certified by the Office of Energy and Planning** as being more stringent than the Act. At this writing, Sunapee is the only municipality in New Hampshire whose ordinance has been certified. The Act empowers DES and the Attorney General's Office to take enforcement action for any violation of the Act, including the issuance of a permit that is not consistent with the provisions of the Act. (RSA 483-B:18).



DATE: November 16, 2004

ON MOTION OF ALD. DeVries

SECONDED BY ALD. Roy

VOTED TO have the Planning Department make a presentation to the Board.

TOD Access: Relay NH 1-800-735-2964

## 2. PRIMARY STRUCTURE SETBACK

The Act requires that "primary structures", typically residences, be set back behind the "primary building line." (RSA 483-B:9, II(b)). Under the original version of the Act, a municipality could establish its own shoreland building setback that would serve as the primary building line in that municipality.

However, in 2002, the Act was amended to establish an absolute distance of 50 feet from the waterbody as the primary building line. (2002 N.H. Laws 114). The amendment removed the provision that allowed municipalities to establish their own setback for primary structures. The amendment allowed municipalities that had established a setback of less than 50 feet prior to January 1, 2002 to maintain that lesser setback. Even in a municipality that adopted a setback of less than 50 feet prior to January 1, 2002, *all other provisions* of the Act continue to apply.

Under the current version of the Act, no municipality may issue a waiver that results in a setback of less than 50 feet. While a municipality that established a primary structure setback of less than 50 feet prior to January 1, 2002, may maintain that lesser setback, it *may not* waive any portion of the setback. By contrast, a municipality that established a primary structure setback greater than the state minimum of 50 feet may waive a portion of its setback, but only to the limit of the state 50-foot setback. For example, a town may waive its 65 foot setback but only to the limit of the 50 foot state setback. Because the Act does not authorize any variance to the primary structure setback, *there is no avenue available to DES for issuance of a variance to the primary structure setback.*

For all new construction subsequent to January 1, 2002 the entire primary structure, *including attached decks*, must be located behind the 50 ft setback. The only exception is construction in municipalities which, by ordinance adopted prior to January 1, 2002, established a setback less than 50 feet; however, in those communities, all construction must strictly comply with the full local setback.

## 3. EXPANSION OF NONCONFORMING STRUCTURES

Section 11 of the Act governs existing nonconforming structures. This provision, which applies to structures built prior to July 1, 1994, was amended in 2002 making the law stricter (2002 N.H. Laws 263:10).

Under the current version of the Act, structures located closer to the water than the primary building line may be "repaired, renovated, or replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but *no expansion of the existing footprint or outside dimensions shall be permitted.*" (RSA 482-B:11, I, emphasis added). DES interprets this to apply only to those portions of the primary structure that lie between the reference line and the setback line and not the portions of the structure located behind the setback line.



Thus, any expansion of an existing structure that is located within the primary structure setback requires a waiver from DES. DES can grant a waiver for redevelopment of a site that contains a nonconforming structure (i.e. the demolition and rebuilding of a structure), only when the redevelopment plans demonstrate that the proposed structure is "*more nearly conforming*" to the Act than the existing structure.

A waiver from DES is required when a property owner proposes an expansion of any of the outside dimensions of the existing structure, *including the height*. Addition of a second floor is considered an expansion even if the overall building height will not increase. Addition of a foundation (provided that the elevation of the first floor remains substantially the same) and a change in the pitch of the roof for structural reasons are not considered expansions. Also, for nonconforming structures erected prior to July 1, 1994, no waiver is required for the addition of a deck or open porch extending no more than 12 feet toward the reference line. *Existing decks and open porches may not be converted into part of the living space.*

**MUNICIPALITIES SHOULD REQUIRE PROPERTY OWNERS TO SECURE ANY REQUIRED VARIANCE OR WAIVER FROM DES PRIOR TO THE ISSUANCE OF A BUILDING PERMIT. THIS WILL ASSURE THAT OWNERS DO NOT BEGIN CONSTRUCTION THAT DOES NOT CONFORM TO THE ACT.**

#### 4. CREATING A BUILDING ENVELOPE

Trees, shrubs and groundcover within the proposed building envelope are not included when calculating the basal area limitation or restrictions on the vegetative buffer under RSA 483-B:9, V(a)(2)(A). A building envelope is defined as follows:

- Between the reference line and the primary structure line - an area of 15 feet surrounding access roads, driveways, other impervious surfaces, septic systems and all structures except accessory structures.
- Between the primary structure line and 150 feet from the reference line - an area of 25 feet surrounding access roads, driveways, other impervious surfaces, septic systems, and all structures except accessory structures.
- For accessory structures - an area of 10 feet surrounding the footprint of the accessory structure.

The property owner is required to stake the building footprint(s) in the field prior to construction and prior to removal of vegetation.

## 5. TREES, SHRUB AND GROUNDCOVER REMOVAL

Outside of the building envelope, only 50% of the trees, shrubs and groundcover located within 150 ft of the reference can be removed, and these must be removed in a manner that leaves an "evenly distributed" stand of remaining vegetation. This includes all trees, saplings, shrubs and groundcover and means *no clear cutting of an open swathe for establishing a view*.

## 6. STUMPING

Woody vegetation that is removed from within 50 feet of the reference line *may not be stumped*, even for accessory structures. Stumping within this area is allowed only for beaches or docking facilities that have received a permit from DES.

## 7. ACCESSORY STRUCTURES

An accessory structure is defined as a structure that is on the same lot and is customarily incidental and subordinate to the primary structure. It includes such things as paths, driveways, patios, and other improved surfaces, pump houses, gazebos, woodsheds, garages, or other outbuildings. Water-dependent structures, such as boathouses, boat ramps and docks, are not considered accessory structures.

Accessory structures shall:

- Be constructed only if allowed by local zoning and if constructed in accordance with the local building code,
- Be no more than 20 feet in height,
- Be no larger than 150 square feet in size,
- Be set back at least 20 feet from the reference line and,
- Be built on land having less than a 25% slope.

## 8. REPLANTING

Replanting to restore the natural woodland buffer that is required as either mitigation or as part of an enforcement action must use native species that are appropriate for the soil type and exposure conditions of the property. Replanting must be done proportional to the density and/or to compensate for the basal area removed as part of the restoration of the property.

It is essential that DES and municipalities work closely with one another to develop full understanding and compliance with the Act. I hope that you find this information helpful in the valuable work that you do in the interests of your community and our state's valuable shorelands. If you have any questions or require additional information, I would encourage you to contact any member of my staff at 603-271-2147.

Sincerely;



Collis G. Adams CWS, CPESC  
Wetlands Bureau Administrator

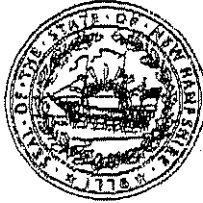
cc: Jennifer J. Patterson, Chief, Environmental Protection Bureau, NH AGO

Enclosures

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ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE

22 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397



KELLY A. AYOTTE  
ATTORNEY GENERAL

September 2, 2004

Michael P. Nolin, Commissioner  
Department of Environmental Services  
29 Hazen Drive  
Concord, New Hampshire 03301

Dear Commissioner Nolin:

This responds to your request for clarification of several issues involving the interaction between the Shoreland Protection Act and other state and municipal regulatory programs. Specifically, you inquired about the obligations of the Department of Environmental Services ("DES") under the Act when issuing other environmental permits, and the circumstances under which a local shoreland ordinance, rather than the Act, applies to a particular project.

- I. THE SHORELAND PROTECTION ACT REQUIRES THE DEPARTMENT OF ENVIRONMENTAL SERVICES, IN PERMITTING A PROJECT WITHIN THE PROTECTED SHORELAND THAT FALLS UNDER SEPARATE PERMIT JURISDICTION OF THE AGENCY, ALSO TO ASSESS WHETHER THE APPLICANT'S PROPOSAL MEETS THE MINIMUM SHORELAND PROTECTION DEVELOPMENT STANDARDS.

The Comprehensive Shoreland Protection Act, RSA Chapter 483-B ("the Act"), originally enacted in 1991, functions statewide as an additional layer of regulation which overlays existing state and municipal permitting schemes, such as building permits, wetlands permits, and septic system approvals. 1991 N.H. Laws 303:1. Aimed at protecting the state's public waters and preventing "uncoordinated, unplanned and piecemeal development along the state's shorelines," the Act establishes generally applicable minimum standards for development within the protected shoreland. RSA 483-B:1 (Purpose); RSA 483-B:9 (Minimum Standards).<sup>1</sup> In keeping with its "comprehensive" nature, the Act applies to all state and local permitting decisions which might affect the development of waterfront property. RSA 483-B:3, I ("State and local permits for work within the protected shorelands

<sup>1</sup> The Act applies to land within 250 feet of the "reference line" or high water mark. RSA 483-B:4, XV (definition of "protected shoreland"), XVII (definition of "reference line").

Michael P. Nolin, Commissioner  
 Department of Environmental Services  
 September 2, 2004  
 Page 2 of 6

shall be issued only when consistent with the policies of this chapter"). DES has authority to enforce the Act, as do municipalities in which protected shoreland is situated. RSA 483-B:5 (DES); RSA 483-B:8, III (municipalities).

The Act does not contain its own separate permit requirement.<sup>2</sup> Rather, its standards are designed to "piggy-back" on existing state and local permit proceedings. RSA 483-B:3, I & II; RSA 483-B:6; RSA 483-B:14 (rehearings and appeals). Section 6 of the Act defines the DES role in issuing permits for work within the protected shoreland:

I. Within the protected shoreland, any person intending to:

- (a) Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.
- (b) Construct a water-dependent structure, alter the bank, or construct or replenish a beach shall obtain approval and all necessary permits pursuant to RSA 482-A.
- (c) Install a septic system as described in RSA 483-B:9, V(b)(1)-(3) shall obtain all permits pursuant to RSA 485-A:29.
- (d) Conduct an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.
- (e) Subdivide land as described in RSA 483-B:9, V(d) and (e) shall obtain approval pursuant to RSA 485-A:29.

II. In applying for these approvals and permits, such persons shall demonstrate to the satisfaction of the department that the proposal meets or exceeds the development standards of this chapter. The department shall grant, deny, or attach reasonable conditions to a permit listed in subparagraphs I(a)-(e), to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

RSA 483-B:6 (Supp. 2003). In programs that predate the Act, DES has regulatory authority over the permits listed in RSA 483-B:6, I(b) – (e). RSA 482-A:3 (wetlands permit); RSA 485-A:17 (terrain alteration); RSA 485-A:29 (septic system and subdivision approval).

The well-established principles of statutory interpretation hold that statutes must be interpreted based on their plain language, focusing on the statute as a whole, not on isolated words or phrases. Transmedia Restaurant Co., Inc. v. Devereaux, 149 N.H. 454, 462 (2003). When the language used in a statute is clear and unambiguous, there is no need to examine the provision's legislative history. Merrill v. Great Bay Disposal Serv., 125 N.H. 540, 542

<sup>2</sup> As originally enacted, the Act required that "[e]ach person intending to construct a new or expanded structure within the protected shoreland, . . . or any other activity which will alter the existing character of the protected shoreland, shall seek a shoreland development permit" from DES. 1991 N.H. Laws 303:1; RSA 483-B:6 (1992 Bound Volume). However, in 1992 the permit requirement was eliminated, and section 6 of the Act was adopted in substantially its present form. 1992 N.H. Laws 235:10.

(1984). "A widely accepted method of statutory construction is to read and examine the text of the statute and draw inferences concerning its meaning from its composition and structure." *Id.*, quoting *State v. Flynn*, 123 N.H. 457, 462 (1983).

Under the plain language of the Act, when an application for a DES permit triggers shoreland review under section 6, DES must proceed with its ordinary permitting process, but must also consider whether the proposal meets the minimum shoreland standards. These standards, contained in RSA 483-B:9, require (among other things) that primary structures be set back behind the primary building line,<sup>3</sup> prohibit certain activities and substances within the protected shoreland,<sup>4</sup> and establish specific requirements with respect to maintenance of a natural woodland buffer,<sup>5</sup> septic systems,<sup>6</sup> and prevention of erosion and siltation.<sup>7</sup> If DES is not satisfied that the proposal meets the minimum standards of the Act, the agency must deny the application. RSA 483-B:6, II.

After careful review, we conclude that the agency's current practice should be modified so as to better comply with the Act. Prior to issuing a permit, DES must be satisfied that the proposal meets the Act's minimum standards. RSA 483-B:6, II. Currently, DES has no formal mechanism for reviewing plans for a proposal's shoreland impacts, taken separately from the standard permit requirements under other regulatory statutes. The shoreland rules require applicants for the permits listed in RSA 483-B:6, I to certify that their projects meet the minimum shoreland standards. N.H. Code of Admin. Rules, PART Env-Ws 1409. Consistent with this rule, the DES practice has been to rely on a combination of the applicant's certification and a permit condition requiring compliance with the Act.

Relying on the applicant's certification and the prospect of enforcement action for noncompliance is not sufficient to demonstrate "satisfaction." Instead, when issuing an environmental permit for a project located within the protected shoreland, DES must make affirmative findings showing the proposal's consistency with the minimum standards of the Act. To provide a basis for these findings, the staff must request that the applicant provide information sufficient to demonstrate that the minimum standards are satisfied. Then, in issuing or denying the permit, the agency must make findings to support its conclusion, and condition the permit on compliance with any plans, specifications or techniques necessary to ensure that the project conforms with the minimum standards.

For example, the DES wetlands program might receive an application under RSA 482-A:3 for a boathouse from a property owner who also intends as part of the same

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<sup>3</sup> RSA 483-B:9, II(b).

<sup>4</sup> The Act prohibits salt storage yards, automobile junk yards and solid or hazardous waste facilities, as well as the use of fertilizer within 25 feet of the reference line. RSA 483-B:9, II(a) and (d).

<sup>5</sup> RSA 483-B:9, V(a).

<sup>6</sup> RSA 483-B:9, V(b).

<sup>7</sup> RSA 483-B:9, V(c). In addition, the Act contains other minimum standards concerning lot size, public utilities, and existing waste facilities. RSA 483-B:9, V(d-f).

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Michael P. Nolin, Commissioner  
Department of Environmental Services  
September 2, 2004  
Page 4 of 6

"project" to construct or modify other structures within the protected shoreland.<sup>8</sup> Under these circumstances, DES should review not only the boathouse plans, but also the plans for the other aspects of the project. To ensure that DES receives the necessary information from the applicant, I recommend that the standard application forms be modified to include a question about whether additional work in the protected shoreland is planned as part of the same project. For applicants who answer in the affirmative, there should be an additional form in which they must provide details about those aspects of the project. The application should not be considered complete until the applicant has provided this information.<sup>9</sup> Some projects may require multiple DES permits (for example, both wetlands and site specific). For such projects, there should be internal coordination within the agency to ensure that the shoreland review is only performed once, and is incorporated into each permit issued.

You also asked about the appropriate appeal route for DES permitting decisions under section 6 of the Act. The Act specifically addresses this issue:

*Where the requirements of this chapter amend the existing statutory authority of the department or other agencies relative to certain established regulatory programs and shall be enforced under these established regulatory programs, the existing procedures governing contested cases and hearings and appeals regarding these requirements shall apply. Where requirements of this chapter are new and do not amend existing statutory authority relative to any established regulatory programs, the procedures set forth in RSA 541-A:31 for contested cases shall apply.*

RSA 483-B:14 (emphasis added). Thus, any administrative appeal of a permitting decision is governed by the procedure specified in the statute under which the underlying permit was granted. See generally RSA 21-O:14, governing administrative appeals from DES decisions. For wetlands permits, appeal should be to the Wetlands Council (see RSA 482-A:10 and RSA 21-O:5-a); for subsurface and site specific permits, appeal should be to the Water Council (see RSA 21-O:7). Where the agency is undertaking enforcement action under the Act itself, appeal would be to the Water Council for administrative orders, and to the New Hampshire Supreme Court under RSA ch. 541 for administrative fines. RSA 21-O:7, IV; RSA 483-B:5, V (administrative orders); RSA 483-B:18, III(c)(administrative fines).

<sup>8</sup>The Act says "proposal," not "project." RSA 483-B:6, II. However, given the subject matter and broad applicability of the Act, we conclude that the word "proposal" as used in RSA 483-B:6, II should be read broadly to include all work contemplated by the applicant as an integrated project on the property within the protected shoreland at the time the application for the DES permit is submitted. A narrower reading would confine the DES review to the criteria in effect prior to the Act, and undermine the Act's purpose.

<sup>9</sup>This is important for programs with statutory deadlines for acting on complete applications. See, e.g., RSA 482-A:3, XIV (Supp. 2003)(DES must complete review of wetlands application within set number of days of notice of administrative completeness, or application will be deemed granted).



II. A MUNICIPAL ORDINANCE CAN APPLY INSTEAD OF THE SHORELAND PROTECTION ACT ONLY AFTER THE OFFICE OF ENERGY AND PLANNING HAS CERTIFIED TO THE DEPARTMENT OF ENVIRONMENTAL SERVICES THAT THE LOCAL ORDINANCE IS AT LEAST AS STRINGENT AS THE ACT.

Your second question concerns the circumstances under which a municipal shoreland ordinance applies instead of the standards in the Act. We conclude that a municipal ordinance can render the Act wholly inapplicable, but only when that ordinance has been certified by the Office of Energy and Planning ("OEP") as being equally stringent to the Act. However, with respect to primary building setbacks only, a setback less than fifty feet may apply in a municipality that adopted the setback prior to January 1, 2002.

Shoreland property is exempt from the Act if it is located in a municipality whose local shoreland ordinance has been certified by OEP. Specifically, the Act provides as follows:

I. Subject to paragraph II, the provisions of this chapter shall not apply to any applicant whose land is in a municipality that has adopted a shoreland protection ordinance under RSA 674:16, the provisions of which are at least as stringent as similar provisions in this chapter. The director of the office of energy and planning shall certify to the commissioner that the provisions of a local ordinance are at least as stringent as similar provisions in this chapter.

II. If a municipality has a local ordinance that does not contain a counterpart to all of the provisions of this chapter, the more stringent provisions shall apply.

RSA 483-B:19 (Supp. 2003 and 2004 N.H. Laws 257:44). While paragraph II was added in 2002,<sup>10</sup> the requirement of OEP certification has remained unchanged since the Act took effect in 1994.<sup>11</sup>

In order for a municipality to qualify for the exemption, the plain language of section 19 requires not only that the local ordinance be as strict as the Act, but also that OEP so certify to DES. If the exemption could take effect without OEP certification, the language requiring certification would be impermissibly superfluous. Merrill v. Great Bay Disposal

<sup>10</sup> 2002 N.H. Laws 263:12.

<sup>11</sup> The original 1991 version of the law provided that the Act would not apply in any municipality that had adopted a draft model ordinance provided by the office of state planning, the predecessor to OEP. See 1991 N.H. Laws 303:1; RSA 483-B:19 (1992 Bound Volume). However, the certification requirement, in substantially its current form, was substituted prior to the law taking effect in 1994. RSA 483-B:19 (2001 Bound Volume); 1994 N.H. Laws 383:20. The provision has also been amended several times, most recently in 2004, to reflect changes in the name of the agency performing the certification. 2003 N.H. Laws 319:9; 2004 N.H. Laws 257:44.

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Michael P. Nolin, Commissioner  
Department of Environmental Services  
September 2, 2004  
Page 6 of 6

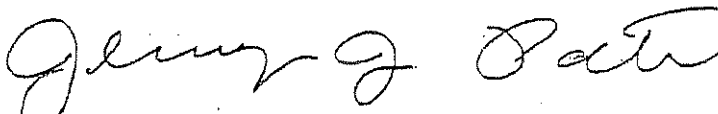
Serv., 125 N.H. 540, 543 (1984)(all words of statute must be given effect; legislature not presumed to use superfluous words). Requiring an affirmative certification by OEP is also consistent with the clear legislative intent that the Act be comprehensive in its application, and that its standards apply to all state and local permits. See RSA 483-B:3 (requiring all state and local permits to be consistent with the Act).

The primary building setback is the only provision of the Act which may vary among municipalities, without OEP certification. Prior to a 2002 amendment, a municipality could establish its own primary building setback, whether lesser or greater than the figure of fifty feet established under the Act. RSA 483-B:9, II (2001 Bound Volume). Under an amendment to the Act which took effect on July 2, 2002, the primary building line is established absolutely at "50 feet from the reference line." 2002 N.H. Laws 114:1; RSA 483-B:9, II (Supp. 2003). Nevertheless, the general court expressly allowed municipalities which had, prior to January 1, 2002, established a setback of less than fifty feet, to maintain that different setback. 2002 N.H. Laws 114:1. Thus, while an uncertified ordinance cannot supplant the Act, certain municipalities whose ordinances have not been certified by OEP may nevertheless have a primary building setback which varies from that established under the Act. Even in those municipalities with different setbacks, however, all other provisions of the Act apply.

In sum, the standards of the Act apply to all state and local permitting decisions, unless the local ordinance has been properly certified by OEP. Both the state and municipalities have authority to enforce the Act; it is worth noting that violations include not only construction that fails to conform with the minimum standards, but also issuance of a permit that is not consistent with the policies of the Act. RSA 483-B:3, I.

I trust this responds to your inquiry. Given the previous uncertainty on the interpretation of these provisions, both within the agency and in the community at large, I recommend that DES undertake outreach consistent with this opinion to ensure affected entities are aware of the Act's requirements.

Very truly yours,



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JJP:mtm

OPN-04-0002

cc: MaryAnn Manoogian, Director, OEP

5

# The Comprehensive Shoreland Protection Act

Statute

RSA 483-B

Pages 1-16

Rules

Env-Ws 1400

Pages 17-26

Index

Pages 27-30

2002



5

# The Comprehensive Shoreland Protection Act

## RSA 483-B

July 2002

### Table of Contents

483-B:1 Purpose. – The general court finds that:	2
483-B:2 Minimum Standards Required:	2
483-B:3 Consistency Required:	3
483-B:4 Definitions. – In this chapter:	3
483-B:5 Enforcement by Commissioner; Duties; Woodland Buffer:	6
483-B:6 Prior Approval; Permits:	7
483-B:7 Reporting; On-Site Inspections; Local Participation:	7
483-B:8 Municipal Authority:	7
483-B:9 Minimum Shoreland Protection Standards:	8
I. The Standards in This Section	8
II. Restrictions	8
(a) Salt Storage Yards, Automobile Junk Yards, And Solid or Hazardous Waste Facilities	8
(b) Primary Structures	8
(c) Water Dependent Structures	8
(d) Fertilizer	8
III. Public Water Supply Facilities	8
IV. Public Water And Sewage Treatment Facilities	8
IV-a. Hydro Electric Facilities	8
IV-b. Public Utility Lines	9
IV-c. Existing Solid Waste Facilities	9
IV-d. Placement of Solid Waste	9
V. Minimum Standards	9
(a) Natural Woodland Buffer	9
(b) Septic Systems	9
(c) Erosion and Siltation	10
(d) Minimum Lots and Residential Development In the Protected Shoreland	10
(e) Minimum Lots And non-residential Development In The Protected Shoreland	11
(f) Common Owners	12
(g) Variances	12
483-B:10 Nonconforming Lots of Record:	12
483-B:11 Nonconforming Structures:	12
483-B:13 Public Hearing and Notice to Abutter:	13
483-B:14 Rehearings and Appeals:	13
483-B:15 Gifts, Grants and Donations:	14
483-B:16 Assistance to Municipalities; Office of State Planning:	14
483-B:17 Rulemaking:	14
483-B:18 Penalties:	15
483-B:19 Applicability:	15
483-B:20 Designated Rivers:	16

5

The Comprehensive Shoreland Protection Act  
RSA 483-B

**483-B:1 Purpose. – The general court finds that:**

- I. The shorelands of the state are among its most valuable and fragile natural resources and their protection is essential to maintain the integrity of public waters.
- I-a. A natural woodland buffer, consisting of trees and other vegetation located in areas adjoining public waters, functions to intercept surface runoff, wastewater, subsurface flow, and deeper groundwater flows from upland sources and to remove or minimize the effects of nutrients, sediment, organic matter, pesticides, and other pollutants and to moderate the temperature of near-shore waters.
- II. The public waters of New Hampshire are valuable resources held in trust by the state. The state has an interest in protecting those waters and has the jurisdiction to control the use of the public waters and the adjacent shoreland for the greatest public benefit.
- III. There is great concern throughout the state relating to the utilization, protection, restoration and preservation of shorelands because of their effect on state waters.
- IV. Under current law the potential exists for uncoordinated, unplanned and piecemeal development along the state's shorelines, which could result in significant negative impacts on the public waters of New Hampshire.

Source. 1991, 303:1.

**483-B:2 Minimum Standards Required:**

To fulfill the state's role as trustee of its waters and to promote public health, safety, and the general welfare, the general court declares that the public interest requires the establishment of standards for the subdivision, use, and development of the shorelands of the state's public waters. The development standards provided in this chapter shall be the minimum standards necessary to protect the public waters of the state of New Hampshire. These standards shall serve to:

- I. Further the maintenance of safe and healthful conditions.
- II. Provide for the wise utilization of water and related land resources.
- III. Prevent and control water pollution.
- IV. Protect fish spawning grounds, aquatic life, and bird and other wildlife habitats.
- V. Protect buildings and lands from flooding and accelerated erosion.
- VI. Protect archaeological and historical resources.
- VII. Protect commercial fishing and maritime industries.
- VIII. Protect freshwater and coastal wetlands.
- IX. Control building sites, placement of structures, and land uses.
- X. Conserve shoreline cover and points of access to inland and coastal waters.

The Comprehensive Shoreland Protection Act  
RSA 483-B

- XI. Preserve the state's lakes, rivers, estuaries and coastal waters in their natural state.
- XII. Promote wildlife habitat, scenic beauty, and scientific study.
- XIII. Protect public use of waters, including recreation.
- XIV. Conserve natural beauty and open spaces.
- XV. Anticipate and respond to the impacts of development in shoreland areas.
- XVI. Provide for economic development in proximity to waters.

Source. 1991, 303:1. 1992, 235:1, 2. 1994, 383:1, eff. July 1, 1994.

**483-B:3 Consistency Required:**

- I. All state agencies shall perform their responsibilities in a manner consistent with the intent of this chapter. State and local permits for work within the protected shorelands shall be issued only when consistent with the policies of this chapter.
- II. When the standards and practices established in this chapter conflict with other local or state laws and rules, the more stringent standard shall control.
- III. All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation, and the clearing of land for agricultural utilization, and other agricultural technologies, shall be exempt from the provisions of this chapter, provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Natural Resources Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the department of agriculture, markets, and food. Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.

Source. 1991, 303:1. 1992, 235:21. 1995, 130:8, eff. July 23, 1995; 206:2, eff. Aug. 11, 1995.

**483-B:4 Definitions. – In this chapter:**

- I. "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- II. "Accessory structure" means a structure, as defined in paragraph XXII of this section, on the same lot and customarily incidental and subordinate to the primary structure, as defined in paragraph XIV of this section; or a use, including but not limited to path, driveways, patios, any other improved surface, pump houses, gazebos, woodsheds, garages, or other outbuildings.
- III. "Basal area" means the cross sectional area of a tree measured at a height of 4-1/2 feet above

5

The Comprehensive Shoreland Protection Act  
RSA 483-B

the ground, usually expressed in square feet per acre for a stand of trees.

IV. "Commissioner" means the commissioner of the department of environmental services or designee.

V. "Department" means the department of environmental services.

VI. "Disturbed area" means an area in which natural vegetation is removed, exposing the underlying soil.

VII. "Ground cover" means any herbaceous plant which normally grows to a mature height of 4 feet or less.

VIII. "Lot of record" means a legally created parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.

IX. [Repealed.]

X. "Municipality" means a city, town, village district if specifically authorized to zone by the legislature, or county in respect to unincorporated towns or unorganized places or any combination thereof pursuant to RSA 53-A.

XI. "Natural woodland buffer" means a forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

XI-a. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the department of environmental services.

XII. "Person" means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and any political subdivision of a state or any agency or instrumentality thereof.

XIII. "Primary building line" means a setback from the reference line.

XIV. "Primary structure" means a structure as defined in paragraph XXII of this section that is central to the fundamental use of the property and is not accessory to the use of another structure on the same premises.

XV. "Protected shoreland" means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters.

XVI. "Public waters" shall include:

- (a) All fresh water bodies listed in the official list of public waters published by the department

The Comprehensive Shoreland Protection Act  
RSA 483-B

pursuant to RSA 271:20, II, whether they are great ponds or artificial impoundments.

(b) Coastal waters, being all waters subject to the ebb and flow of the tide, including the Great Bay Estuary and the associated tidal rivers.

(c) Rivers, meaning all year-round flowing waters of fourth order or higher, as shown on the now current version of the U.S. Geological Survey 7 1/2' topographic maps. Stream order shall be determined using the Strahler method, whereby the highest year-round streams in a watershed are first order streams, their juncture yields second order streams, the juncture of second order streams yields third order streams, et seq. A listing of the streams of fourth order and higher shall be prepared and maintained by the office of state planning and delivered to the commissioner 30 days after the effective date of this act.

XVII. "Reference line" means:

(a) For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the Department of Environmental Services.

(b) For artificially impounded fresh water bodies with established flowage rights, the limit of the flowage rights, and for water bodies without established flowage rights, the waterline at full pond as determined by the elevation of the spillway crest.

(c) For coastal waters, the highest observable tide line, which means a line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that blocks further flow of the tide.

(d) For rivers, the ordinary high water mark.

XVIII. "Removal or removed" means cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.

XVIII-a. "Repeat violation" means a violation that occurs within 3 years of notification by the department of a prior violation, as defined in RSA 483-B:18, I, whether on the same site or by the same person or entity on a second site. Each day of continuing violation after notification of that violation shall be considered a repeat violation.

XVIII-b. "Repair" means work conducted to restore an existing, legal structure by partial replacement of worn, broken, or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so during construction.

XVIII-c. "Replace in kind" means that substitution of a new structure for an existing legal structure, whether in total or in part, with no change in size, dimensions, footprint, interior square footage, and location, with the exception of changes resulting in an increase in the setback to public waters.

XVIII-d. "Replacement system" means a septic system that is not considered new construction under RSA 485-A:29-44 and rules adopted to implement it.

5



The Comprehensive Shoreland Protection Act  
RSA 483-B

XIX. "Residential unit" means a structure, or portion thereof, providing complete and independent living facilities, including permanent facilities for living, sleeping, eating, cooking, and sanitation which are used in common by one or more persons.

XX. "Sapling" means any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4-1/2 feet above the ground.

XX-a. "Shoreland frontage" means the average of the distances of the actual natural shoreline footage and a straight line between property lines.

XXI. "Shrub" means any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.

XXII. "Structure" means anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, as well as anything constructed or erected with a fixed location on or in the ground, exclusive of fences.

XXIII. "Subdivision" means subdivision as defined in RSA 672:14.

XXIV. "Tree" means any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4-1/2 feet above the ground.

XXV. "Urbanization" means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for commercial or industrial use, or mixed residential, commercial, and industrial use.

XXVI. "Water dependent structure" means a structure that services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp.

Source. 1991, 303:1. 1992, 235:3-7, 22. 1994, 383:2-5, 22, I, eff. July 1, 1994. 1996,  
17:1, 2, eff. June 14, 1996; 228:65, eff. July 1, 1996.

**483-B:5 Enforcement by Commissioner; Duties; Woodland Buffer:**

I. The commissioner, with the advice and assistance of the office of state planning, department of resources and economic development and department of agriculture, markets, and food, shall enforce the provisions of this chapter.

II. The commissioner or his designee may, for cause, enter upon any land or parcel at any reasonable time to perform oversight and enforcement duties provided for in this chapter.

III. [Repealed.]

IV. To encourage coordination of state and local enforcement measures, the commissioner shall notify, at the time of issuance or filing, the local governing body of enforcement action undertaken by the state in respect to protected shoreland within the municipality by sending it copies of relevant administrative orders issued and pleadings filed.

The Comprehensive Shoreland Protection Act  
RSA 483-B

V. The commissioner may issue an order to any person in violation of this chapter, of rules adopted under this chapter, or of any condition of a permit issued under this chapter.

Source. 1991, 303:1. 1992, 235:8, 9. 1994, 383:6, 22, II. 1995, 130:4, eff. July 23, 1995.

**483-B:6 Prior Approval; Permits:**

I. Within the protected shoreland, any person intending to:

- (a) Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.
- (b) Construct a water dependent structure, alter the bank, or construct or replenish a beach shall obtain approval and all necessary permits pursuant to RSA 482-A.
- (c) Install a septic system as described in RSA 483-B:9, V(b)(1)-(3) shall obtain all permits pursuant to RSA 485-A:29.
- (d) Conduct an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.
- (e) Subdivide land as described in RSA 483-B:9, V(d) and (e) shall obtain approval pursuant to RSA 485-A:29.

II. In applying for these approvals and permits, such persons shall demonstrate to the satisfaction of the department that the proposal meets or exceeds the development standards of this chapter. The department shall grant, deny, or attach reasonable conditions to a permit listed in subparagraphs I(a)-(e), to protect the public waters or the public health, safety or welfare. Such conditions shall be related to the purposes of this chapter.

Source. 1991, 303:1. 1992, 235:10, eff. Jan. 1, 1993. 1996, 17:3, eff. June 14, 1996.

**483-B:7 Reporting; On-Site Inspections; Local Participation:**

The department may devise a system whereby municipal officials may voluntarily assist with the permitting process under RSA 483-B:6 and the subsequent enforcement of permit conditions, by performing certain reporting functions relative to on-site inspections. Utilization of such reports shall be at the department's discretion, but may, when appropriate, obviate the need for further on-site review by department staff.

Source. 1991, 303:1. 1992, 235:23, eff. Jan. 1, 1993.

**483-B:8 Municipal Authority:**

- I. Municipalities may adopt land use control ordinances relative to all protected shorelands which are more stringent than the minimum standards contained in this chapter.
- II. Municipalities are encouraged to adopt land use control ordinances for the shorelands of water bodies and water courses other than public waters.

The Comprehensive Shoreland Protection Act  
RSA 483-B

III. Municipalities in which protected shoreland is situated may enforce the provisions of this chapter by issuing cease and desist orders and by seeking injunctive relief or civil penalties as provided in RSA 483-B:18, III(a) and (b). Civil penalties and fines collected by the court shall be remitted within 14 days to the treasurer of the municipality prosecuting said violations, for the use of the municipality. Any municipality electing to enforce the provisions of this chapter shall send copies of any pleading to the attorney general at the time of filing. Municipalities bordering the same water body are encouraged to employ jointly a single code enforcement officer to monitor compliance.

IV. The authority granted to municipalities under this chapter shall not be interpreted to extend to RSA 430:28-48.

V. Municipalities bordering the same water body are encouraged to employ jointly a single code enforcement officer to monitor compliance.

Source. 1991, 303:1. 1992, 235:11, eff. Jan. 1, 1993.

**483-B:9 Minimum Shoreland Protection Standards:**

I. The standards in this section are designed to minimize shoreland disturbance so as to protect the public waters, while still accommodating reasonable levels of development in the protected shoreland. Development outside the protected shoreland shall conform to local zoning and local ordinances and shall not be subject to standards established in this chapter.

II. Within the protected shoreland the following restrictions shall apply:

- (a) The establishment or expansion of salt storage yards, automobile junk yards, and solid or hazardous waste facilities shall be prohibited.
- (b) Primary structures shall be set back behind the primary building line which is 50 feet from the reference line.
- (c) A water dependent structure, meaning one which is a dock, wharf, pier, breakwater, or other similar structure, or any part thereof, built over, on, or in the waters of the state, shall be constructed only as approved by the department, pursuant to RSA 482-A.
- (d) No fertilizer, except limestone, shall be used within 25 feet of the reference line of any property. Twenty-five feet beyond the reference line, low phosphate, slow release nitrogen fertilizer or limestone, may be used on lawns or areas with grass.

III. Public water supply facilities, including water supply intakes, pipes, water treatment facilities, pump stations, and disinfection stations shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law. Private water supply facilities shall not require a permit.

IV. The placement and expansion of public water and sewage treatment facilities shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

The Comprehensive Shoreland Protection Act  
RSA 483-B

IV-a. Hydro electric facilities, including, but not limited to, dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

IV-b. Public utility lines and associated structures and facilities shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

IV-c. An existing solid waste facility which is located within 250 feet of the reference line of public waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under permit.

IV-d. No solid waste facility shall place solid waste within 250 feet of the reference line of public waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed, subject to permitting conditions under RSA 149-M:9, to erect accessory structures and conduct other activities consistent with the operation of the facility within 250 feet of the reference line of public waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the department of environmental services. Under no circumstances shall the toe of any slope encroach within 150 feet of the reference line.

V. The following minimum standards shall apply to the protected shoreland provided that forest management not associated with shoreland development nor land conversion and conducted in compliance with RSA 227-J:9, forestry involving water supply reservoir watershed management, or agriculture conducted in accordance with best management practices, shall be exempted from the provisions of this chapter:

(a) Natural woodland buffer.

(1) Where existing, a natural woodland buffer shall be maintained within 150 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland.

(2) Within the natural woodland buffer of the protected shoreland under conditions defined in RSA 483-B:9, V, all of the following prohibitions and limitations shall apply:

(A) Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place.

(B) Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.

The Comprehensive Shoreland Protection Act  
RSA 483-B

(C) Structures, as defined in RSA 483-B:4, XXII, within the natural woodland buffer shall be afforded an opening for building construction, that shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A).

(D) Dead, diseased, unsafe, or fallen trees, saplings, shrubs, or ground covers may be removed. Their removal shall not be used in computing the percentage limitations under subparagraph (a)(2)(A).

(E) Stumps and their root systems which are located within 50 feet of the reference line shall be left intact in the ground, unless removal is specifically approved by the department, pursuant to RSA 482-A.

(F) Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.

(G) Planting efforts that are beneficial to wildlife are encouraged.

(b) Septic Systems.

(1) All new lots, including those in excess of 5 acres, created within the protected shoreland are subject to subdivision approval by the department of environmental services under RSA 485-A:29.

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(A) Adjacent to ponds, lakes, estuaries and the open oceans.

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line;

(ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line; and

(iii) For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(B) Adjacent to rivers the setback shall be no less than 75 feet.

(3) The placement of all septic tanks and leaching portions of septic systems for replacement systems shall comply with the requirements of subparagraph (b)(2), to the maximum extent feasible.

(c) Erosion and siltation

(1) All new structures, modification to existing structures, and excavation or earth moving within protected shoreland shall be designed and constructed in accordance with rules

The Comprehensive Shoreland Protection Act  
RSA 483-B

adopted by the department under 541-A, relative to terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

(2) New structures and all modifications to existing structures within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

(3) A permit pursuant to RSA 485-A:17, I shall be required for improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.

(d) Minimum lots and residential development in the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as established by the department of environmental services under RSA485-A and rules adopted to implement it.

(2) For projects in areas dependent upon on-site sewage and septic systems, the total number of residential units in the protected shoreland, whether built on individual lots or grouped as cluster or condominium development, shall not exceed:

(A) One unit per 150 feet of shoreland frontage; or

(B) For any lot that does not have direct frontage, one unit per 150 feet of lot width as measured parallel to the shoreland frontage that lies between the lot and the reference line.

(3) No lot dependent upon an on-site septic system, having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

(4) Lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards, and shall not be subject to any shoreland frontage requirement, except as provided by municipal standards.

(5) Lots and residential units outside of the protected shoreland shall not be subject to this chapter.

(e) Minimum lots and non-residential development In the protected shoreland:

(1) The minimum size for new non-residential lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as set forth under rules adopted pursuant to RSA 541-A.

(2) Non-residential development requiring on-site water, sewage and septic systems shall not be constructed on lots less than 150 feet in width.

(3) Non-residential lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards.

5

The Comprehensive Shoreland Protection Act  
RSA 483-B

(4) Non-residential lots outside of the protected shoreland shall not be subject to this chapter.

(f) Common owners and residential or non-residential development. In the protected shoreland, waterfront parcels held in common by one or more owners of contiguous interior parcels may be developed but only in a manner consistent with the provisions of this chapter. Care shall be taken for the adequate provision of parking, toilet facilities, and related support systems to minimize the project's impact on the public waters.

(g) The commissioner shall have the authority to grant variances from the minimum standards of this section. Such authority shall be exercised subject to the criteria which govern the grant of a variance by a zoning board of adjustment under RSA 674:33, I(b).

Source. 1991, 303:1. 1992, 235:12-18, 28, I. 1994, 383:7-14. 1995, 32:1, eff. April 24, 1995; 206:2, eff. Aug. 11, 1995; 299:16, eff. Jan. 1, 1996. 1996, 17:4, 5, eff. June 14, 1996; 100:1, eff. May 15, 1996; 228:66, 108, eff. July 1, 1996; 251:22, eff. Aug. 9, 1996; 296:52, 53, eff. Aug. 9, 1996.

**483-B:10 Nonconforming Lots of Record:**

Nonconforming, undeveloped lots of record that are located within the protected shoreland shall comply with the following restrictions, in addition to any local requirements:

I. Except when otherwise prohibited by law, present and successive owners of an individual undeveloped lot may construct a single family residential dwelling on it, notwithstanding the provisions of this chapter. Conditions may be imposed which, in the opinion of the commissioner, more nearly meet the intent of this chapter, while still accommodating the applicant's rights.

II. Building on nonconforming lots of record shall be limited to single family residential structures and related facilities, including, but not limited to, docks, piers, boathouses, boat loading ramps, walkways, and other water dependent structures, consistent with state law.

Source. 1991, 303:1. 1992, 235:19. 1994, 383:15, eff. July 1, 1994.

**483-B:11 Nonconforming Structures:**

I. Except as otherwise prohibited by law, nonconforming structures, erected prior to July 1, 1994, located within the protected shoreland may be repaired, renovated, or replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but no expansion of the existing footprint or outside dimensions shall be permitted. An expansion that increases the sewerage load to an on-site septic system, or changes or expands the use of a septic system or converts a structure to condominiums or any other project identified under RSA 485-A:29-44 and rules adopted to implement it shall require approval by the department. Between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that the addition of a deck or porch is permitted up to a maximum of 12 feet towards the reference line.

The Comprehensive Shoreland Protection Act  
RSA 483-B

II. When reviewing requests for the redevelopment of sites that contain nonconforming structures erected prior to July 1, 1994, the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to the public waters. For the purposes of this section, a proposal that is "more nearly conforming" means a proposal for significant changes to the location or size of existing structures that bring the structures to greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume or flow, or both types of proposal which significantly improve wildlife habitat or resource protection.

Source. 1991, 303:1. 1992, 235:20. 1994, 383:16, 17, eff. July 1, 1994. 1996, 17:6,  
eff. June 14, 1996.

**483-B:12 Shoreland Exemptions:**

I. The governing body of a municipality may, in its discretion, request the commissioner to exempt all or a portion of the protected shoreland within its boundaries from the provisions of this chapter if the governing body finds that special local urbanization conditions exist in the protected shoreland for which the exemption is sought.

II. If the governing body of a municipality requests such an exemption, it shall submit evidence of existing and historical patterns of building and development in the protected shoreland. Such evidence shall address:

- (a) Current and past building density.
- (b) Commercial or industrial uses.
- (c) Municipal or other public utilities.
- (d) Current municipal land use regulations which affect the protected shoreland.
- (e) Any other information which the commissioner may reasonably require.

III. With the advice of the office of state planning, the commissioner shall approve or deny the request for an exemption and shall issue written findings in support of his decision. A request for an exemption shall be approved only if the municipality demonstrates, using the evidence required under paragraph II, that special conditions of urbanization exist along the portion of shoreland to be exempted.

IV. The state port authority may request an exemption under this section for all or a portion of any land purchased, leased, or otherwise acquired by it pursuant to RSA 271-A.

Source. 1991, 303:1.

**483-B:13 Public Hearing and Notice to Abutter:**

[Repealed 1992, 235:28, II, eff. Jan. 1, 1993.]

**483-B:14 Rehearings and Appeals:**



The Comprehensive Shoreland Protection Act  
RSA 483-B

Where the requirements of this chapter amend the existing statutory authority of the department or other agencies relative to certain established regulatory programs and shall be enforced under these established regulatory programs, the existing procedures governing contested cases and hearings and appeals regarding these requirements shall apply. Where requirements of this chapter are new and do not amend existing statutory authority relative to any established regulatory programs, the procedures set forth in RSA 541-A:31 for contested cases shall apply.

Source. 1991, 303:1. 1992, 235:24. 1994, 412:51, eff. Aug. 9, 1994.

**483-B:15 Gifts, Grants and Donations:**

The department is authorized to solicit, receive, and expend any gifts, grants, or donations made for the purposes of this chapter. Gifts of land or easements shall be assigned to the department of resources and economic development for management or assignment to another state agency or other public body, as appropriate.

Source. 1991, 303:1, eff. July, 1994.

**483-B:16 Assistance to Municipalities; Office of State Planning:**

The office of state planning may assist municipalities with the implementation of local ordinances under this chapter, upon the request of an individual municipality.

Source. 1991, 303:1, effective July 1, 1994.

**483-B:17 Rulemaking:**

The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

I. The content and structure of all forms, applications and permits to be received or issued by the department under this chapter, including information and other materials to be submitted by an applicant.

II. Procedures for filing and review of requests for urbanized shoreland exemptions and standards for granting urbanized shoreland exemptions, including time frames for decisions.

III. Enforcement of the minimum shoreland standards, including methods and timing of inspection and coordination with municipalities.

IV. Procedures and criteria for the placement of small accessory structures such as storage sheds and gazebos, the size, placement, and construction of which is consistent with the intent of this chapter, between the reference line and the primary building line.

V. Criteria governing the assessment of administrative fines.

VI. Criteria governing low phosphate, slow release nitrogen fertilizer.

VII. Criteria governing maintaining a healthy, well-distributed stand of trees, saplings, shrubs and ground covers.

VIII. A methodology for identifying unsafe trees.

The Comprehensive Shoreland Protection Act  
RSA 483-B

IX. Defining the opening for building construction.

X. Definitions of terms not defined in this chapter.

Source. 1991, 303:1. 1992, 235:25. 1994, 383:18, eff. July 1, 1994. 1996, 100:2, eff. May 15, 1996.

**483-B:18 Penalties:**

I. The following shall constitute a violation of this chapter:

- (a) Failure to comply with the provisions of this chapter.
- (b) Failure to obey an order of the commissioner or a municipality issued relative to activities regulated or prohibited by this chapter.
- (c) Misrepresentation by any person of a material fact made in connection with any activity regulated or prohibited by this chapter.

II. Any person who violates this chapter and any person who purchases land affected by a violation of this chapter who knew or had reason to know of the violation shall be liable for remediation or restoration of the land affected.

III. Persons violating the provisions of this chapter shall be subject to the following:

- (a) Upon petition of the attorney general or of the municipality in which the violation occurred, the superior court may levy upon any person violating this chapter a civil penalty in an amount not to exceed \$20,000 for each day of each continuing violation. The superior court shall have jurisdiction to restrain a continuing violation of this chapter, and to require remediation.
- (b) Any person who knowingly violates any provision of this chapter, or any rule adopted or order issued under this chapter or any condition of any permit issued under this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person, and, notwithstanding RSA 651:2, may in addition to any sentence of imprisonment, probation or conditional discharge, be fined not more than \$20,000 for each violation if found guilty pursuant to this section. Each day of violation shall constitute a separate offense.
- (c) The commissioner, after notice and hearing pursuant to RSA 541-A, shall impose an administrative fine of up to \$5,000 for each offense upon any person who violates this chapter. Rehearings and appeals relating to such fines shall be governed by RSA 541. Imposition of an administrative fine under this section shall not preclude the imposition of further civil or criminal penalties under this chapter.
- (d) Notwithstanding of the \$5000 fine limit in subparagraph (c), the administrative fine for each repeat violation of this chapter may be multiplied by a factor of 2 for every previous violation committed by the person or entity.

Source. 1991, 303:1. 1994, 383:19, eff. July 1, 1994.

**483-B:19 Applicability:**

July 2002

Page 15

S

The Comprehensive Shoreland Protection Act  
RSA 483-B

I. Subject to paragraph II, the provisions of this chapter shall not apply to any applicant whose land is in a municipality that has adopted a shoreland protection ordinance under RSA 674:16, the provisions of which are at least as stringent as similar provisions in this chapter. The director of the office of state planning shall certify to the commissioner that the provisions of a local ordinance are at least as stringent as similar provisions in this chapter.

II. If a municipality has a local ordinance that does not contain a counterpart to all of the provisions of this chapter, the more stringent measure shall apply.

Source. 1991, 303:1. 1992, 235:26. 1994, 383:20, eff. July 1, 1994.

**483-B:20 Designated Rivers:**

The provisions of this chapter shall not apply to rivers or river segments designated by the general court and approved for management and protection under RSA 483 prior to January 1, 1993 with the exception of the Connecticut River.

Source. 1994, 383:21, eff. July 1, 1994.

# Shoreland Protection Administrative Rules

## Env-Ws 1400

### Table of Contents

CHAPTER Env-Ws 1400 SHORELAND PROTECTION	18
Part Env-ws 1401 Purpose And Applicability	18
Part Env-ws 1402 Definitions	18
Part Env-ws 1403 Enforcement Of The Natural Woodland Buffer	18
Part Env-ws 1404 Erosion And Sedimentation	20
Part Env-ws 1405 Placement And Size Of accessory Structures	20
Part Env-ws 1406 Nonconforming Structures	20
Part Env-ws 1407 Variance From The Minimum Standards	21
Part Env-ws 1408 Urbanized Shoreland Exemption	21
Part Env-ws 1409 Shoreland Protection Certification	22
Administrative Rule Changes to Part Env-Ws 1002:	23
Administrative Rule Changes to Part Env-Ws 1003.04:	24
Administrative Rule Changes to Part Env-Ws 1003.05:	24
chapter Env-c 611 Fines Relating To Development Within The Protected Shoreland	24

Shoreland Protection Administrative Rules  
Part Env-Ws 1400

**CHAPTER Env-Ws 1400 SHORELAND PROTECTION**

Statutory Authority: RSA 483-B:17

**Part Env-ws 1401 Purpose And Applicability**

Env-Ws 1401.01 Purpose. The purpose of these rules is to implement RSA 483-B, the comprehensive shoreland protection act.

Env-Ws 1401.02 Applicability. These rules shall apply to all land areas subject to RSA 483-B, namely, all land areas:

- (a) Within 250 feet, horizontal distance, of the natural mean high water level of natural fresh water bodies without artificial impoundments listed in the official list of public waters published by the department;
- (b) Within 250 feet, horizontal distance, of the water line at full pond as determined by the elevation of the top of the impoundment structure of artificially impounded fresh water bodies listed in the official list of public waters;
- (c) Within 250 feet, horizontal distance, of the highest observable tide line of coastal waters; and
- (d) Within 250 feet, horizontal distance, of the ordinary high water mark of rivers, meaning all year-round flowing waters of fourth order or higher, as shown on the current version of the U.S. Geological Survey topographic maps as defined in RSA 483-B:4, XVI (c), excluding those land areas exempted by RSA 483-B:20.

**Part Env-ws 1402 Definitions**

Env-Ws 1402.01 Statutory Definitions. Any term used in these rules shall have the same meaning as in RSA 483-B:4.

Env-Ws 1402.02 Additional Definitions. In addition to the statutory definitions, the following definitions shall apply:

- (a) "Fertilizer" means any substance containing one or more recognized plant nutrient(s) which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.
- (b) "Non-conforming lot" means a lot that does not meet current state or local subdivision, zoning, or other lot size or setback requirements.

**Part Env-ws 1403 Enforcement Of The Natural Woodland Buffer**

Env-Ws 1403.01 Well-Distributed Stand. If ordered by the department to restore a well-distributed stand of trees, saplings, shrubs and ground cover, the violator shall submit a restoration plan for approval that describes:

Shoreland Protection Administrative Rules  
Part Env-Ws 1400

- (a) The species of plants proposed for replanting;
- (b) The number of plants proposed for replanting;
- (c) The basal area of the trees proposed for replanting;
- (d) The existing trees within the natural woodland buffer; and
- (e) The existing and proposed structures, including but not limited to the primary building, accessory structures, and water-dependent structures.

Env-Ws 1403.02 Plan Approval. The department shall approve plans that meet the following criteria:

- (a) Replacement plantings shall meet one of the following:
  - (1) Replacement plants shall consist of the species that are as close as possible to the species present prior to vegetation removal; or
  - (2) At least 75 percent of the replacement plants shall be chosen from the natural woodland buffer plantings list included as appendix D.
- (b) Replacement plants shall have spatial and compositional diversity that replicates a natural woodland buffer.
- (c) Replacement and remaining trees shall comprise at least 50 percent of the basal area that existed prior to cutting.
- (d) Replacement trees shall be placed no further apart than 10 feet on center.
- (e) There shall be no changes to surface drainage unless a sediment and erosion control plan is submitted and approved. The sediment and erosion control plan shall be submitted with the restoration plan and shall meet the requirements specified in Env-Ws 415.

Env-Ws 1403.03 Opening for Building Construction.

- (a) Subject to (b) below, the opening for building construction shall be measured on the horizontal plane as the area extending 25 feet from access roads, driveways and other impervious surfaces, septic systems and all structures except accessory structures.
- (b) Between the primary building line and the reference line, the opening shall be measured on the horizontal plane as the area extending 15 feet from access roads, driveways and other impervious surfaces, septic systems and all structures except accessory structures.
- (c) The opening for construction of an accessory structure shall be measured as the area extending 10 feet outward from the footprint of the accessory structure.
- (d) The property owner shall stake the building(s) footprint(s) in the field.

Env-Ws 1403.04 Trees Outside Building Construction Opening.

- (a) Any tree located outside the opening for building construction shall be counted in the basal

5

Shoreland Protection Administrative Rules  
Part Env-Ws 1400

• area percentage limitation calculations, subject to RSA 483-B:9, V(a)(2)(D).

(b) For purposes of determining compliance with RSA 483-B:9, V(a)(2)(A), only those areas outside the opening for building construction shall be considered.

**Part Env-ws 1404 Erosion And Sedimentation**

Env-Ws 1404.01 Compliance. Pursuant to RSA 483-B:9, V(c), construction, earth moving or other significant alteration of the characteristics of the terrain within the protected shoreland shall comply with RSA 485-A:17 and Env-Ws 415.

**Part Env-ws 1405 Placement And Size Of accessory Structures**

Env-Ws 1405.01 Applicability. Requirements of this part shall apply to accessory structures located between the reference line and the primary building line, including but not limited to storage sheds, wells, pump houses and gazebos.

Env-Ws 1405.02 Construction. Accessory structures shall be:

- (a) Constructed only if allowed by local zoning; and
- (b) Constructed in accordance with the local building code.

Env-Ws 1405.03 Status. Accessory structures shall:

- (a) Not exceed 20 feet in height; and
- (b) Have a footprint no larger than 150 square feet.

Env-Ws 1405.04 Setback.

(a) Subject to (b) below, all accessory structures built after the effective date of these rules shall be set back at least 20 feet from the reference line.

(b) The minimum 20-foot setback shall not apply to structures that require direct access to the water as an operational necessity, including but not limited to piers, docks, boathouses, retaining walls, pump houses, wells and other functionally water-dependent structures.

Env-Ws 1405.05 Placement. No accessory structure shall be built on land having greater than 25% slope.

**Part Env-ws 1406 Nonconforming Structures**

Env-Ws 1406.01 Replacement of Nonconforming Primary Buildings Damaged by Accidental Means. Any nonconforming structure damaged by accidental means shall be rebuilt, repaired or removed within one year of the date of the accident.

Env-Ws 1406.02 Replacement of Nonconforming Primary Buildings Other Than Those Damaged By Accidental Means. The replacement of any nonconforming primary structure shall be at least as far back as the primary building line.

Shoreland Protection Administrative Rules  
Part Env-Ws 1400

Env-Ws 1406.03 Decks and Porches of Nonconforming Structures. Decks and porches located between the primary building line and the reference line shall not be converted to become part of the primary living space.

**Part Env-ws 1407 Variance From The Minimum Standards**

Env-Ws 1407.01 Information required for a variance request. Each applicant for a variance under RSA 483-B:9, V(g) shall provide the following information on a form obtained from the department:

- (a) Name of landowner;
  - (b) Mailing address of landowner;
  - (c) Location of subject parcel and tax map number;
  - (d) Description of the lot with sketch showing surface waters and the reference line;
  - (e) A specific reference to the chapter or rules for which a variance is being sought;
  - (f) A full explanation of the development for which a variance is sought;
  - (g) Pursuant to RSA 483-B:9, V(g), the reason for requesting a variance based on the criteria which govern the grant of a variance by a zoning board of adjustment under RSA 674:33, I(b); and
  - (h) Evidence that the criteria specified in (g) above have been met.
- Env-Ws 1407.03 Local Notification. Each applicant for a variance shall submit a copy of the information required by Env-Ws 1407.02 to the local governing body, at the time of submittal to the department.

Env-Ws 1407.04 Findings. The department shall approve a request for variance upon finding that the proposal is adequate to ensure that the intent of RSA 483-B is met and that the criteria for granting a variance under RSA 674:33 have been met.

Env-Ws 1407.05 Reason for Denial. No variance shall be granted which, in the judgement of the department, contravenes the intent of RSA 483-B or any rule.

**Part Env-ws 1408 Urbanized Shoreland Exemption**

Env-Ws 1408.01 Exemption. Pursuant to RSA 483-B:12(I), the governing body of a municipality may, in its discretion, request the commissioner to exempt all or a portion of the protected shoreland within its boundaries from the provisions of this chapter if the governing body finds that special local urbanization conditions exist in the protected shoreland for which the exemption is sought.

Env-Ws 1408.02 Evidence.

- (a) Pursuant to RSA 483-B:12(II), the municipality shall present evidence of existing and historical patterns of building and development in the protected shoreland, which shall address



Shoreland Protection Administrative Rules  
Part Env-Ws 1400

the following:

- (1) Current and past building density;
  - (2) Current commercial or industrial uses;
  - (3) Municipal or other public utilities; and
  - (4) Current municipal land use regulations which affect the protected shoreland.
- (b) The municipality shall also provide:
- (1) The number of structures in sight from the waterbody;
  - (2) Density allowed under current local zoning ordinances;
  - (3) Extent of non-residential land use currently existing; and
  - (4) If available, a recent aerial photograph of the area.

Env-Ws 1408.03 Delivery. The applicant shall send the evidence directly to the office of state planning with a copy to the commissioner.

Env Ws 1408.04 Time Frames for Decisions.

- (a) Provided the office of state planning notifies the applicant in writing of the reasons for the extension, the office of state planning may take up to an additional 30 working days to perform the review.
- (c) The commissioner shall approve the request if the evidence required in Env-Ws 1408 shows that the municipality has existing and historical patterns of building and development in the protected shoreland.
- (d) The commissioner shall issue findings in support of the decision within 30 working days from receipt of the recommendation.

**Part Env-ws 1409 Shoreland Protection Certification**

Env-Ws 1409.01 Other Department Permits.

- (a) Pursuant to RSA 483-B:6, any person applying for any of the following permits shall submit the certification application as specified in (b):
  - (1) Wetlands permit pursuant to RSA 482-A.
  - (2) Individual sewage disposal system pursuant to RSA 485-A:29.
  - (3) Subdivision permit pursuant to RSA 485-A:29.
  - (4) Alteration of terrain permit pursuant to RSA 485-A:17.
- (b) Applicants for any permit listed in (a) above shall, at the time of filing the permit application, also provide the following information on a form obtained from the department:

Shoreland Protection Administrative Rules  
Part Env-Ws 1400

- (1) Name of agent or applicant;
  - (2) Town in which the project is proposed;
  - (3) The tax map, block, and lot number;
  - (4) Subdivision name; and
  - (5) The answers to the following questions:
    - A. "Will the project for which a permit is hereby requested involve construction, land clearing, or other development within the protected shoreland as defined by RSA 483-B: 4, XV? Answer yes or no.";
    - B. "If the project involves construction, land clearing, or other development within the protected shoreland, will it meet or exceed the development standards of RSA 483-B? Answer yes or not applicable."; and
  - (6) "If the answer to b. above is "not applicable", state why."
- (c) The applicant shall agree to and sign the following: "As owner or agent for the owner of the subject property, by my signature below I certify that: My responses to questions above are correct to the best of my knowledge. I am familiar with the requirements of RSA 483-B and have knowledge of the development activities which will be undertaken. The plans and other information submitted with this permit application provide a complete description of the project and demonstrate how compliance will be accomplished. I understand that false information given in this certification may result in revocation of any permit granted by the department of environmental services as a result of this application. I also understand that RSA 483-B:18 provides that violations subject the responsible party to remediation or restoration of the land affected, fines up to \$20,000 for each day of continuing violation, imprisonment and other penalties."

**Administrative Rule Changes to Part Env-Ws 1002:**

Env-Ws 1002.28 "Natural woodland buffer" means "natural woodland buffer" as defined by RSA 483-B:4, XI.

Env-Ws 1002.31 "Primary building line" means "primary building line" as defined in RSA 483-B:9, II(b).

Env-Ws 1002.32 "Protected shoreland" means "protected shoreland" as defined by RSA 483-B: 4, XV.

Env-Ws 1002.35 "Reference line" means "reference line" as defined by RSA 483-B:4, XVII.

Env-Ws 1002.36 "Restrictive layer" means a soil horizon that restricts the downward flow of water and is uncharacteristic of the soil layers above and below, such as a layer of soil with a consistence of firm or very firm, cemented horizons, or stratified layers of silt, loam or clay within the soil profile.

5

Shoreland Protection Administrative Rules  
Part Env-Ws 1400

Env-Ws 1002.39 "Shoreland frontage" means the average of the distances of the actual natural shoreline footage and a straight line drawn between property lines.

**Administrative Rule Changes to Part Env-Ws 1003.04:**

- (r) If the lot is within the protected shoreland, the following additional information :
- (1) Length of shoreland frontage, if the development is residential;
  - (2) Lot width, if the development is commercial; and
  - (3) The topography of an area equal to or greater than the lot size determined by Env-Ws 1005.02 for each lot.

**Administrative Rule Changes to Part Env-Ws 1003.05:**

- (ae) If the lot is within the protected shoreland the following additional information :
- (1) The reference line;
  - (2) The primary building line;
  - (3) Distance and location of nearest surface waters in relation to disposal system unless the nearest surface waters is greater than 125 feet away; and
  - (4) A designation on the plan of the limits of the natural woodland buffer.

**Chapter Env-c 611 Fines Relating To Development Within The Protected Shoreland**

Statutory Authority: RSA 483-B:17

**Env-C 611.01 Definitions.**

Any term used in these rules shall have the same meaning as in the law or rule to which the fine relates.

**Env-C 611.02 Water Quality Violations.**

Determination of a water quality violation shall be done in accordance with Env-Ws 430.

**Env-C 611.03 Fines Relating to Salt Storage Yards, Auto Junk Yards and Solid or Hazardous Waste facilities.**

For violations relating to RSA 483-B:9 regarding salt storage yards, auto junk yards, and solid or hazardous waste facilities, the fine shall be \$2,000 if not resulting in water quality violations and \$2,500 if resulting in water quality violations.

**Env-C 611.04 Fines Relating to Construction of Primary Structures.**

- (a) For violations relating to construction of a primary structure between the reference line and the primary building line, the fine shall be \$3,000.

Shoreland Protection Administrative Rules  
Part Env-Ws 1400

(b) For violations relating to construction of an addition that extends the structure closer to the public waters, except the addition of an open deck or porch up to a maximum of 12 feet towards the reference line pursuant to RSA 483-B:11, II, the fine shall be \$2000.

(c) For violations relating to the enclosure of an open deck or porch, located between the reference line and the primary building line, the fine shall be \$2000.

Env-C 611.05 Fines Relating to Fertilizer Use Within the Protected Shoreland.

For use of fertilizers not in accordance with RSA 483-B, the fine shall be \$500 if not resulting in water quality violations and \$1000 if resulting in water quality violations.

Env-C 611.06 Fines Relating to the Natural Woodland Buffer.

(a) For building construction of an accessory structure in the natural woodland buffer zone not in accordance with Env-Ws 1400, the fine shall be \$2,000.

(b) For each stump removed within 50 feet of the reference line, the fine shall be \$1,000 if not resulting in water quality violations and \$1,500 if resulting in water quality violations.

(c) For failure to maintain a well-distributed stand within the 150 foot natural woodland buffer zone the fine shall be \$4,000 if not resulting in water quality violations and \$4,500 if resulting in water quality violations.

(d) For failure to maintain a 50% basal area within the 150 foot natural woodland buffer zone the fine shall be \$4,000 if not resulting in water quality violations and \$4,500 if resulting in water quality violations.

Env-C 611.07 Fines Relating to Failure to Comply With An Order.

For failing to comply with a department order, the fine shall be \$2,000.

Env-C 611.08 Failure to Pay Fines.

For failure to pay a fine imposed in accordance with these rules, the fine shall be 10% of the amount of the originally-imposed fine per month or portion thereof for any part of an unpaid fine. Fines for failure to pay a fine shall be imposed in accordance with these rules.

Env-C 603.02 Fines Relating to Alteration of Terrain.

For violations relating to RSA 485-A:17, Env-Ws 415, RSA 483-B, and Env-Ws 1400 regarding alteration of terrain, the amount of the administrative fine shall be as follows:

(g) For construction, earth moving or other activities resulting in the significant alteration of 50,000 sq. ft. or greater of the terrain within the protected shoreland without a permit:

(1) \$3,000 if the activities have not caused a water quality violation; and

(2) \$3,500 if the activities have caused a water quality violation;

(h) For construction, earth moving or other activities within the protected shoreland for which

5

Shoreland Protection Administrative Rules  
Part Env-Ws 1400

a permit has been obtained but which is not in conformance with the conditions of the permit:

- (1) \$2,000 if the activities have not caused a water quality violation; and
- (2) \$2,500 if the activities have caused a water quality violation;
- (i) Failure to design and construct new structures to prevent erosion of exposed soils:
  - (1) \$1,000 if the activities have not caused a water quality violation; and
  - (2) \$1,500 if the activities have caused a water quality violation.

Env-C 604.01 Fines Relating to Subdivisions.

For violations of RSA 485-A [and], Env-Ws 1000, RSA 483-B, and Env-Ws 1400 relating to subdivisions, the amount of the administrative fine shall be as follows:

- (e) For commencing road construction on, clearing vegetation from, placing fill on or otherwise altering a parcel of land within the protected shoreland for which plans are required to be submitted pursuant to RSA 483-B:9 prior to obtaining approval of the subdivision plan, \$2,000.

Env-C 604.02 Fines Relating to Septic Systems.

For violations of RSA 485-A, Env-Ws 1000, RSA 483-B:9, and Env-Ws 1400 relating to septic systems, the amount of the administrative fine shall be as follows:

- (r) For failure to meet the required setback requirements for all new leaching portions of new septic systems, \$2,000.

## Index

### A

Abutter  
    Defined 3  
Accessory structure 9, 14, 19, 20  
    Defined 3  
    Fines 25  
    Footprint 20  
    Height 20  
    Opening 19  
    Setback 20  
    Slope 20  
    Water Dependant 20  
Agriculture 3, 8, 9  
Alteration of nonconforming structures 12  
Alteration of Terrain 7, 11  
    Certification 22  
    Fines 25  
Appeals 13-16, 15  
Applicability 15-16  
Applications 14  
Aquatic life 2  
Archaeological and historical resources 2  
Artificial impoundments 5, 18  
    Reference Line Defined 5  
Automobile junk yards 8  
    Fines 24

### B

Bank alteration 7  
Basal area 9, 19  
    Defined 3  
    Fines 25  
Beach replenishment 7  
Birds, Habitat 2  
Breakwaters 8

### C

Cease and desist orders 8  
Chemical pollution 9  
Civil penalties 15  
Cluster subdivision 11  
Coastal waters 18  
    Defined 5  
    Reference Line Defined 5  
Coastal wetlands 2  
Commercial fishing 2

Commissioner  
    Defined 4  
Common ownership 12  
Conditions 7  
Condominium development 11  
Conflict with other local or state laws 3  
Connecticut River 16  
Consistency 3-16  
Construction 11  
    Fines 24, 25, 26  
Conversion 21  
Court, superior 15

### D

Dam Safety 9  
Dead trees 10  
Decks 12, 21  
    Fines 25  
Definitions 3-16, 18, 23  
Department  
    Defined 4  
Designated Rivers 16  
Development outside the protected shoreland 8  
Diseased trees 10  
Disturbed area  
    Defined 4  
Docks 8  
Donations 14  
Drainage structures 9

### E

Earth excavation 7  
Economic development 3  
Enforcement 6-16, 14  
    By Commissioner 6  
    Woodland buffer 6  
Erosion 2, 9, 10, 19, 20  
    Fines 26  
Exemptions 13-16  
Expansion of nonconforming structures  
    Fines 25

### F

Fallen trees 10  
Felony 15  
Fertilizer 8, 14  
    Defined 18  
    Fines 25  
Fines 14, 24  
    Administrative 15

## Index

Failure to pay 25  
 Fish habitat 9  
 Fish spawning grounds 2  
 Flooding 2  
 Forest management 9  
 Forms 14  
 Fourth order or higher streams 5, 10, 18  
   Defined 5  
   Reference Line Defined 5  
 Fresh water 4

## G

General Court 2  
 Gifts 14  
 Grants 14  
 Grass 8  
 Great Bay Estuary 5  
 Great ponds 5  
 Ground cover 9, 18  
   Defined 4

## H

Hazardous waste facilities 8  
   Fines 24  
 Healthy well-distributed stand 9, 18  
   Fines 25  
 Hydro electric facilities 9

## I

Individual building lots 11  
 Inspection authority 6

## J

Joint code enforcement 8  
 Jurisdiction 15

## L

Land use control ordinances 7  
 Lawns 8  
 Limestone 8  
 Local Authority  
   Approvals 7  
   Building code 20  
   Coordination 6  
   Enforcement 6  
   Ordinances 14, 16  
   Participation 7-16  
   Permits 3  
   Urbanization 13

Lot of record  
   Defined 4  
 Lot width 24

## M

Minimum lot size 11-12  
 Minimum standards 2-16, 8-16  
 Misdemeanor 15  
 Misrepresentation 15  
 Monitoring wells 9  
 Municipalities, Assistance to 14  
 Municipality 13  
   Defined 4  
 Municipal authority 7-16  
 Municipal sewers 11

## N

Native or naturalized species 19  
 Natural beauty 3  
 Natural fresh water bodies 18  
   Reference Line Defined 5  
 Natural Resources Conservation Service 10  
 Natural woodland buffer 9-12, 18  
   Defined 4, 23  
   Fines 25  
 Nitrogen fertilizer 8  
 Non-residential development 11  
 Nonconforming Lots of Record 12-16  
   Defined 18  
 Nonconforming Structures 20  
   Accidental damage 20  
   Demolition 20  
   Replacement of 20  
 Nonconforming structures 12-16  
   Expansion 12  
   Renovation 12  
   Repair 12  
   Defined 5  
   Replace in kind 12  
   Defined 5  
 Nutrients 9

## O

Office of State Planning 14, 16  
 On-site inspections 7-16  
 Opening for building construction 10, 19  
 Order 7, 15  
   Failure to comply 25  
 Ordinary high water mark  
   Defined 4

## Index

## P

Patios 12, 21  
     Fines 25  
 Penalties 15-16  
 Penalties, criminal 15  
 Permits 7-16  
 Person  
     Defined 4  
 Piers 8  
 Pipes 8  
 Plan Approval 19  
 Porches 12, 21  
     Fines 25  
 Port authority 13  
 Primary building line 8, 19  
     Defined 4, 23  
 Primary structures 8, 19  
     Defined 4  
     Fines 24  
 Prior approval 7-16  
 Private water supply facilities 8  
 Protected shoreland 9  
     Defined 4, 23  
 Public health, safety, and the general welfare 2  
 Public interest 2  
 Public utility lines 9  
 Public waters 2  
     Defined 4  
 Public water supply facilities 8  
 Pump houses 20  
 Pump stations 8  
 Purpose 2, 18

## R

Redevelopment 13  
 Reference line 10  
     Defined 5, 23  
 Remediation 15, 19  
 Removal or removed  
     Defined 5  
 Repeat violation  
     Defined 5  
 Replacement plantings 19  
 Replacement septic systems 10  
     Replacement system defined 5  
 Replanting 19  
 Residential units 11  
     Defined 6  
 Restrictive layers 10  
     Defined 23

Root systems 9, 10  
 Rulemaking 14-16  
 Rules 18  
 Rule changes 23, 24  
 Runoff 11

## S

Salt storage 8  
     Fines 24  
 Sapling 9, 18  
     Defined 6  
 Scenic beauty 3  
 Scientific study 3  
 Sediment 19  
 Septic systems 7, 10-12, 12  
     Fines 26  
     Setback 10  
     Tanks 10  
 Sewage treatment facilities 8  
 Shoreland frontage 11, 24  
     Defined 6, 24  
 Shoreland Protection Certification 22  
 Shrub 18  
     Defined 6  
 Solid waste facilities 8, 9  
     Fines 24  
 Species 19  
 State agencies 3  
 Statutory Authority 18  
 Storage sheds 20  
 Strahler method 5  
 Structures 10  
     Defined 6  
     Fines 24  
 Stumps 10  
     Fines 25  
 Subdivision 7, 10, 11  
     Certification 22  
     Defined 6  
     Fines 26  
 Subsurface Systems Bureau 7, 10  
     Certification 22

## T

Tidal rivers 5  
 Topography 24  
 Tree 9, 18  
     Defined 6  
 Tree canopy 9  
 Turbidity 9



## Index

## U

Understory 9  
Unsafe trees 10  
Urbanization  
    Defined 6  
Urbanized shoreland exemptions 14, 21  
    Delivery 22  
    Evidence 21  
    Time frames for decisions 22

## V


Variances 12, 21  
    Approval 21  
    Denial 21  
    Findings 21  
    Local notification 21  
Violation 15, 18

## W

Waste permit 9  
Waterfront parcels 12  
Waters of the state 8  
Water dependent structures 7, 8, 12, 19, 20  
    Defined 6  
Water pollution 2  
Water quality violations  
    Fines 24  
Water supply intakes 8  
Water supply reservoir watershed management 9  
Water temperatures 9  
Water treatment facilities 8  
Wells 20  
Wetlands Bureau 7, 8  
    Permit Certification 22  
Wharf 8  
Wildlife habitat 3, 9, 10  
Wildlife habitats 2

## Z

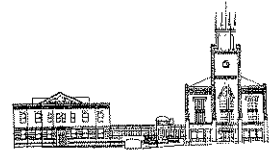
Zoning board of adjustment 12, 21





# CITY OF MANCHESTER

## Office of the City Clerk



Leo R. Bernier  
City Clerk

Carol A. Johnson  
Deputy City Clerk

Paula L-Kang  
Deputy Clerk  
Administrative Services

Matthew Normand  
Deputy Clerk  
Licensing & Facilities

Patricia Piecuch  
Deputy Clerk  
Financial Administration

### MEMORANDUM

To: Board of Mayor and Aldermen

From: Lisa Thibault, City Clerk's Office *Loa*

Date: December 30, 2004

Subject: BMA Minutes for Acceptance

Enclosed for your review and consideration are copies of minutes for meetings on the following dates:

September 7, 2004 (2)

October 5, 2004 (2)

November 3, 2004

which will appear on the January 4, 2005 BMA agenda.

Attachments

*A*



# CITY OF MANCHESTER

## Board of Aldermen



December 27, 2004

The Honorable  
Board of Mayor and Aldermen  
One City Hall Plaza  
Manchester, NH 03101

Re: Ordinance amendment for referral to Bills on Second Reading

Dear Colleagues:

In April of 2002 the Employee Recruitment section of the Code of Ordinances was changed to remove the department head's authority to review all applications received by Human Resources when filling positions. It is our belief that the department heads are well qualified and compensated appropriately to determine what applicants are best qualified and suited for positions within their departments.

Therefore, we are requesting that the Board amend the ordinance *from* the present language which reads:

33.027 Employee Recruitment and Selection

(F) The Human Resources Department shall forward the applications of all qualified applicants on file to the appropriate department for screening, selection and appointment. The Human Resources Department may make written comments on applicant qualifications, but the department wherein the vacancy exists shall be the final judge.

*to* the original language to read as follows:

33.027 Employee Recruitment and Selection

(F) The Human Resources Department shall forward the applications of all applicants on file to the appropriate department for screening, selection and appointment. The Human Resources Department may make written comments on applicant qualifications, but the department wherein the vacancy exists shall be the final judge.

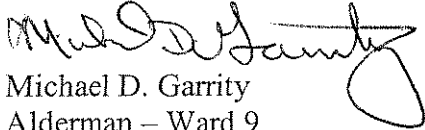
You will note that the change in language does not preclude the Human Resources Department from reviewing the applications and providing comments to the department head.

B


Board of Mayor and Aldermen  
December 27, 2004  
Page 2

Your favorable consideration in referring this ordinance amendment to the Committee on Bills on Second Reading for technical review would be most appreciated.

Sincerely,



Michael D. Garrity  
Alderman – Ward 9



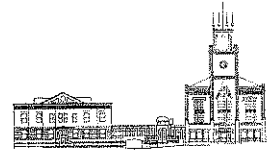
Paul Porter  
Alderman – Ward 6

B



# CITY OF MANCHESTER

## Office of the City Clerk



Leo R. Bernier  
City Clerk

Carol A. Johnson  
Deputy City Clerk

Paula L-Kang  
Deputy Clerk  
Administrative Services

Matthew Normand  
Deputy Clerk  
Licensing & Facilities

Patricia Piecuch  
Deputy Clerk  
Financial Administration

Memo To: Board of Mayor and Aldermen

From: Carol A. Johnson  
Deputy City Clerk

Date: December 28, 2004

Re: Ordinance for referral to Bills on Second Reading  
(Dog Licensing update)

Enclosed for the Board's consideration is an ordinance amending Chapter 90 of the Code to reflect consistency with the State law currently being enforced in the City. The rates being added for puppies and late fees are currently being charged by this department in accordance with State law, but are not reflected in the City's ordinances.

Your favorable support in updating our Code would be most appreciated.

# City of Manchester New Hampshire

*In the year Two Thousand and Five*

## AN ORDINANCE

"Amending Chapter 90: Animals., Section 90.11 License Required of the Code of Ordinances of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinance by inserting new language in Section 90.11 License Required as bolded (**bold**). Portions of the following section that remain unchanged appear in regular type.

(A) All dogs kept, harbored, or maintained by their owner or keeper in the city shall be licensed annually in accordance with the provisions of R.S.A. Ch. 466 at fees established as follows:

Puppies (4 to 7 months old)	\$ 7.50
Neutered male/spayed female	\$ 7.50
Male/female	\$10.00
Senior citizen owner	
First dog	\$ 3.00
Group license	
Five or more dogs	\$20.00

(B) There shall be a charge of \$1.00 for each month or any part thereof that the fees remain unpaid if said fees are not paid before June 1 in any year.

- II. This Ordinance shall take effect upon its passage.

# City of Manchester New Hampshire

*In the year Two Thousand and Five*

## AN ORDINANCE

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property  
Known as West Haven Road, Map 0922/Lot 0039-A.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,  
as follows:

- I. That in accordance with New Hampshire RSA 80:80, the Mayor is authorized to convey a parcel of tax-deeded property known as West Haven Road, City Map 0922/Lot0039-A in the City of Manchester to Dennis and Diane Traynor of 139 Mayflower Drive and Harold Bradley of 20 Robin Hill Road, subject to conditions set forth herein. A purchase and sales agreement shall be executed listing terms to include the City attaining approval of the subdivision of said property, approval of consolidation of property with abutters lots, and reimbursement of costs to the City by the purchasers at a cost not to exceed Three Thousand Dollars (\$3,000.00).

Said property was acquired by Tax Collector's Deed dated January 16, 1991 and recorded in the Hillsborough County Registry of Deeds on January 21, 1991, Book 5234, Page 1626. The Board of Assessors concurs that the above noted disposition reflects a reasonable value.

The Board finds just cause to sell such property to the abutter as said parcel is considered residual/unbuildable, serves no practical public purpose other than to the abutters, is presently a liability to the City as a waste disposal site, and sale of property to the abutters shall place the property on the tax roles.

- II. This Ordinance shall remain in effect for a period of two years (2) from the date of passage.

D

# City of Manchester New Hampshire

*In the year Two Thousand and Four*

## A RESOLUTION

“Authorizing the Finance Officer to effect a transfer of Five Thousand Dollars (\$5,000.00) from Contingency to Management Services”

Resolved by the Board of Mayor and Aldermen of the City of Manchester as follows:

That the Finance Officer be and is hereby directed to effect a transfer from Contingency as follows:

Management Services	Account 1000C10350 .....\$5,000.00
---------------------	------------------------------------

Resolved, that this resolution shall take effect upon its passage.

For “legal counsel”

F



## To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Lands and Buildings respectfully recommends, after due and careful consideration, that certain property known as West Haven Road Map 922, Lot 39-A, be found surplus to City needs and that the Mayor be authorized to dispose of same subject to conditions as follows:

The Committee recommends that the City execute a purchase and sales agreement with Dennis Traynor and Diane Traynor of 139 Mayflower Drive and Harold Bradley of 20 Robin Hill Road. Terms of said purchase and sales agreement to include the city attaining approval of the subdivision of said property, approval of consolidation of property with abutters lots, and reimbursements of costs to the City by the purchasers at a price not to exceed \$3,000.

The Committee notes that said property was acquired by Tax Collector's Deed dated January 16, 1991 and recorded in the Hillsborough County Registry of Deeds on January 21, 1991 Book 5234, Page 1626. The Board of Assessors concur that the above noted disposition reflects a reasonable value and the Planning Director has provided a report as contained herein. The Committee notes that it finds just cause to sell said property to the abutters as said parcel is considered residual/unbuildable, serves no practical public purpose other than to the abutters, is presently a liability to the City as a waste disposal site and property shall be placed back on the tax roles as a result of property transfer.

The Committee further recommends that the Highway Department, Planning Department and City Solicitor be authorized and directed to carry out process and transfer of said parcel, and that the Finance Director be authorized to credit tax deed accounts as may be appropriate upon final transfer of said property.

Respectfully submitted,



Clerk of Committee

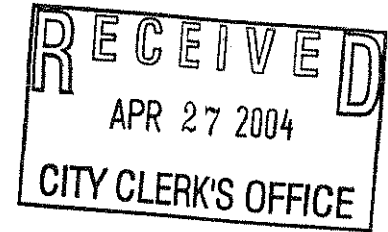




**City of Manchester  
Office of the Tax Collector**

City Hall  
One City Hall Plaza - West  
Manchester, New Hampshire 03101  
(603) 624-6575 (Phone)  
(603) 628-6162 (Fax)

Joan A. Porter  
Tax Collector



## Memorandum

DATE: APRIL 26, 2004

TO: LAND & BUILDING COMMITTEE

FROM: JOAN PORTER, TAX COLLECTOR *Joan*

RE: DISPOSAL OF LAND AT WEST HAVEN ROAD

CC: Assessors  
Highway Dept  
Planning Dept

There have been numerous complaints to the Highway Department about disposal of yard waste on the City-owned property known as W Haven Road at Map 922 Lot 39-A.

I have attached a copy of the map depicting the piece of land in question. According to the property record card (attached) the size is 1757 square feet. I would ask that the Committee determine whether it is surplus to the City's needs and if so, dispose of it in the most appropriate manner according to RSA 80:80 I, II, IIa, III.

*F*

CURRENT OWNER		UTILITIES		STRT./ROAD		LOCATION	
CITY OF MANCHESTER TAX COLLECT		1 Level	8 None	1 Paved	1 Urban		
908 ELM ST				5 Curb & Gutter			
MANCHESTER, NH 03101-2018							
Additional Owners:							
3437548		RAD OR CAD CAD = 660					
Land Adjust		Old LUC					
Voided		Sketch Note V					
Total SF		Land Class N					
Zone		Parcel Zip 03104					
Frontage/Dep		No					

RECORD OF OWNERSHIP		BK-VOL/PAGE		SALE DATE		q/n		V SALE PRICE		V.C.	
CITY OF MANCHESTER TAX COLLECT				01/16/1991				0		0	
OWNER UNKNOWN											

EXEMPTIONS				OTHER ASSESSMENTS			
Year	Type/Description	Amount	Code	Description	Number	Amount	Comm. Int.
Total:							

APPRAISED VALUE SUMMARY	
Appraised Bldg. Value (Card)	
Appraised XF (B) Value (Bldg)	
Appraised OB (L) Value (Bldg)	
Appraised Land Value (Bldg)	
Special Land Value	

This signature acknowledges a visit by a Data Collector or Assessor

8

APPROPRIATED VALUE SUMMARY	
Appraised Bldg. Value (Card)	
Appraised XF (B) Value (Bldg)	
Appraised OB (L) Value (Bldg)	
Appraised Land Value (Bldg)	
Special Land Value	
Total Appraised Card Value	
Total Appraised Parcel Value	
Valuation Method:	
Net Total Appraised Parcel Value	

BUILDING PERMIT RECORD						VISIT/CHANGE HISTORY						
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments	Date	ID	Cd.	Purpose/Result
									10/23/2000	GH	14	Other
									3/27/1991		00	Meas & Int Insp.

LAND LINE VALUATION SECTION																		
B#	Use Code	Description	Zone	D	Frontage	Depth	Units	Unit Price	I. Factor	S.I.	C. Factor	Nbhd.	Adj.	Notes- Adj./Special Pricing	Adj. Unit Price	Land Val		
1	9600	NON TAX C					1,757.00	SF	12.68	3.00	1	1.00	660	1.25	47.55			
Total Card Land Units													1,757.00	SF	Parcel Total Land Area:		1,757 SF	Total Land Value

A high-contrast, black and white photograph of a textured surface, possibly a book cover or a piece of fabric. The texture is highly irregular and grainy. A small, rectangular label with the number '30' is visible near the center. The overall appearance is dark and heavily textured.



Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Millyard Design Review Committee

April 27, 2004

Committee on Land and Buildings  
Honorable Board of Mayor and Aldermen  
Manchester City Hall  
One City Hall Plaza  
Manchester, New Hampshire 03101

Re: *Disposition of City-owned parcel (Tax Map 922, Lot 39-A) on West Haven Street*

Dear Committee Members:

This irregularly shaped lot is a tax-deeded 1,686 s.f. parcel having 90 feet of frontage on West Haven Street which is directly abutted by three residential properties (see attached map). It is not of sufficient size or shape to act as a buildable lot. The Highway Department has reported numerous recent complaints related to the disposal of trash at this location and the Committee is now being asked to consider whether returning the parcel to private sector ownership would alleviate this problem.

**Surplus Determination:** The Planning Department has reviewed this property and has determined that there are no practical City uses for the parcel and, as such, we recommend that it be declared "surplus" city land.

**Disposition:** The disposition of this parcel had previously come before the Committee in 1991 when one abutter requested an opportunity to acquire it. Our report to the Committee at that time (see attached) recommended that the parcel be offered for sale to one of the three abutters mentioned above. Because our records from that time period are incomplete we are currently unaware as to how this previous issue was settled. However, with respect to the current situation regarding the accumulation of trash at the site, we now believe that the most likely way of resolving the issue is to return the parcel to the private sector. Towards this end, we wish to affirm our previous recommendation to offer the parcel to an abutter. The Committee may wish to consider this option.

Sincerely,

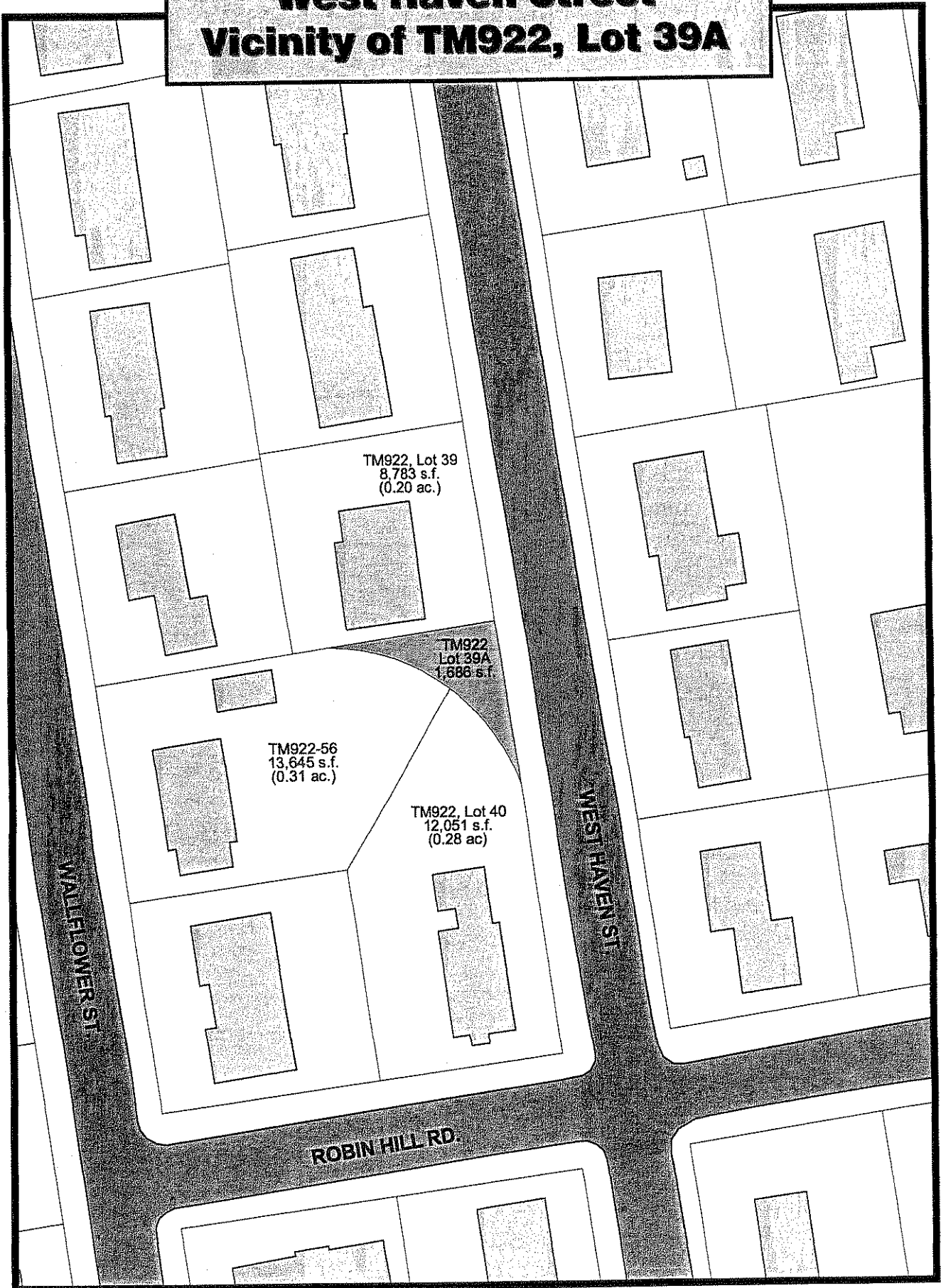
Robert S. MacKenzie  
Director of Planning & Community Development

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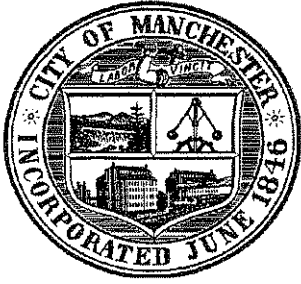
One City Hall Plaza, Manchester, New Hampshire 03101  
Phone: (603) 624-6450 FAX: (603) 624-6529  
E-mail: [planning@ci.manchester.nh.us](mailto:planning@ci.manchester.nh.us)  
[www.ci.manchester.nh.us](http://www.ci.manchester.nh.us)

F

# West Haven Street Vicinity of TM922, Lot 39A



F



City of Manchester  
Office of the Tax Collector

City Hall  
One City Hall Plaza - West  
Manchester, New Hampshire 03101  
(603) 624-6575 (Phone)  
(603) 628-6162 (Fax)

Joan A. Porter  
Tax Collector

## Memorandum

DATE: May 20, 2004  
TO: Land & Building Committee  
FROM: Joan A. Porter, Tax Collector  
RE: L W Haven Rd

As requested, the following contains information regarding the Tax-Deeded property located at: **L W Haven rd**

Prior Owner: Unknown  
Map/Lot: 922/ 39-A  
Lien Date: 05/27/88  
Deed Date: 01/16/91  
Recorded Date: 1/21/91  
Book/Page: 5234/1626  
Back Taxes \$267.36 (not including interest and costs)

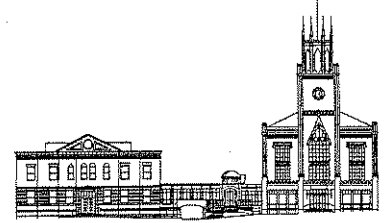
I do not have any objections to the disposition of this property.

F



## CITY OF MANCHESTER Board of Assessors

One City Hall Plaza, West Wing  
Manchester, New Hampshire 03101  
Tel: (603) 624-6520 – Fax: (603) 628-6288  
E-Mail: [assessors@ci.manchester.nh.us](mailto:assessors@ci.manchester.nh.us)  
Website: [www.ci.manchester.nh.us](http://www.ci.manchester.nh.us)



Steven G. Tellier, Chairman  
Thomas C. Nichols  
Stephan W. Hamilton

Christine Hanagan  
Assistant to Assessors

To: Mayor and Board of Aldermen  
From: Board of Assessors  
Date: December 27, 2004  
Re: 2006 Citywide Revaluation Funding

I am writing to request authorization to execute a contract with Vision Appraisal Technology for the City's revaluation. I would note that additional funding in the amount of \$530,000. will be required to complete the 2006 Citywide Revaluation previously authorized by the Board. In authorizing the contract the City will be committing to the additional funding that will be required to complete the project

Enclosed is the latest version of the proposed contract with the low bidder, Vision Appraisal Technology. We expect work to begin in late January 2005 for a 2006 completion date. We ask the Board's approval of the contract subject to the review and approval of the City Solicitor. The following is a breakdown of the anticipated costs of the project.

Revaluation Bid Cost	\$1,180,000
FY04 CIP Encumbrance	(\$500,000)
FY05 CIP Encumbrance	<u>(\$250,000)</u>
	\$430,000
Contingency (Additional Days Defense Beyond 5 Days Contracted)	\$50,000
Contingency (Utility ROW Defense of Values)	<u>\$50,000</u>
<b>Total Remaining Appropriation Required For 2006 Revaluation</b>	<b>\$530,000</b>

Members of the Board of Assessors will be in attendance should any questions arise.

CC: Thomas R. Clark, City Solicitor  
Kevin Clougherty, Finance Officer  
Robert MacKenzie, Planning and Community Development Director  
Sam Maranto, Planning/CIP  
Office of the City Clerk

11





**John A. Jaskolka**  
*Chief*

# City of Manchester Police Department

Ralph Miller Public Safety Center  
351 Chestnut Street  
Manchester, New Hampshire 03101-2294  
(603) 668-8711 Business Phone  
(603) 668-8941 Main Fax  
(603) 628-6137 Administrative Offices Fax

## Commission

James A. McDonald, Sr.  
John J. Tenn  
Nory Marquez  
Thomas D. Noonan  
Calvin T. Cramer

## Deputy Chiefs

Richard P. O'Leary  
Glenn S. Leidemer  
Gary T. Simmons

## Executive Secretary

Kim Demers

December 17, 2004

Honorable Mayor Robert A. Baines  
Board of Mayor and Aldermen  
One City Hall Plaza  
Manchester, NH 03101

Dear Mayor and Alderman:

The Manchester Police Department is currently running with four Police Officer vacancies and a supervisory vacancy (Police Sgt.) will occur on December 20, 2004, bringing the sworn vacancy total to five.

Four of these positions have remained vacant since the start of the fiscal year, based on the anticipated budget decrease that occurred. These vacancies in conjunction with other civilian staff vacancies that periodically occur have resulted in savings to our budget, well over \$300,000, including benefits. Of course the vacancies often result in overtime, which diminishes that savings to some extent.

City Departments are now operating with a 2% reduction in their fiscal 2005 budget. For the Police Department that is a reduction totaling approximately \$400,000. That reduction as well as absorbing the 2% cola increase, Verizon Arena details and unforeseen incidents such as homicide investigations has placed a considerable burden on our department budget.

We have instituted various measures, as have other departments to meet the current reductions and continue to look at cost saving measures to meet the adjustments. However, our primary area for savings has been and remains in our salary line. We have expressed our concerns to the BMA regarding the decrease in our budget and have been instructed to come before the Board should we anticipate short falls.

I come before the Board at this time because of our desire to fill the police officer vacancies that we currently have. We have recently completed testing for new police officer candidates to fill those vacancies. Out of 109 candidates we are down to 34 candidates who have thus far met the requirements. Historically that number diminishes with a more intensive background investigation. However, anticipating positive results from those investigations, we hope to fill the vacancies by February 28, 2005.


The significance of this date, is the timeframe of allowing new candidates to enter the April 2005 Police Standards and Training Council Police Academy. Completion of the April Academy, in-house training and Field Officer Training will result in 5 new positions ready for the street by mid to late summer. That goal will assist with the busier summer months as well as the vacation schedule that results in absences. If we are unable to meet this timeline, new candidates, who have not been hired by other departments, could not attend the Police Academy until August 2005, with street readiness for early winter. With the summer months approaching, heavy vacation scheduling and the current vacancies, we in essence could be 14 officers short in the patrol ranks during the summer months. Filling the vacancies will lessen that shortage and slightly reduce the need to hire overtime.

A NATIONALLY ACCREDITED LAW ENFORCEMENT AGENCY

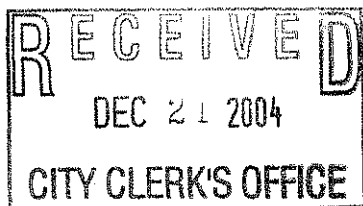


It is my responsibility to advise the Board that filling these vacancies will not allow us to meet our present budget with the additional demands associated with the decreased budget we received. Furthermore, based on projections I may request further budget considerations towards the end of the fiscal year. However, the need to return to full compliment and effectively work with increased calls for service and valuable programs I urge the board to allow us to fill these vacancies and adjust our budget accordingly to meet the requirements of new hires.

Sincerely,



John A. Jaskolka  
Chief of Police



# City of Manchester New Hampshire

*In the year Two Thousand and Four*

## A RESOLUTION

“Authorizing the Finance Officer to effect a transfer of Five Thousand Dollars (\$5,000.00) from Contingency to Management Services”

Resolved by the Board of Mayor and Aldermen of the City of Manchester as follows:

That the Finance Officer be and is hereby directed to effect a transfer from Contingency as follows:

Management Services	Account 1000C10350 .....\$5,000.00
---------------------	------------------------------------

Resolved, that this resolution shall take effect upon its passage.

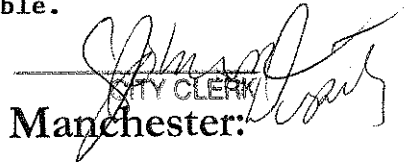
For “legal counsel”

DATE: November 16, 2004

ON MOTION OF ALD. Guinta

SECONDED BY ALD. Forest

VOTED TO table.

  
CITY CLERK

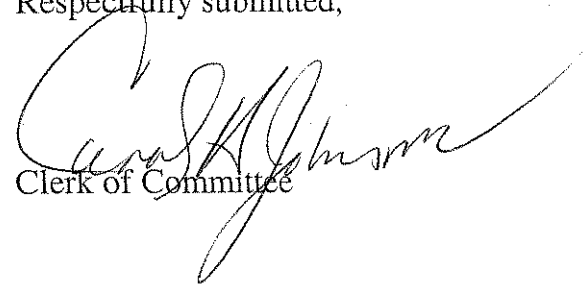
To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Traffic/Public Safety respectfully recommends, after due and careful consideration, that Ordinance:

“Amending Section 70.57(A) Parking Rates of the Code of Ordinances of the City of Manchester by increasing the monthly parking garage rates.”

providing for increase of parking garage rates from \$65.00 monthly to \$70.00 monthly, as enclosed herein, be adopted with an effective date of January 1, 2005.

Respectfully submitted,

  
Clerk of Committee

# City of Manchester New Hampshire

*In the year Two Thousand and Five*

## AN ORDINANCE

“Amending Section 70.57(A) Parking Rates of the Code of Ordinances of the City of Manchester by increasing the monthly parking garage rates.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amending Section 70.57 (A) (2) Parking Rates by removing language ~~struck through~~ and replacing same with language ***bolded and italicized*** as follows:

(A) Parking garage rates:

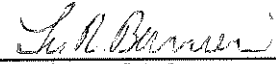
(2) Monthly rate ~~\$65.00~~ ***\$70.00*** from 6:00 a.m. to 7:00 p.m. Monday through Friday excluding holidays: Center of NH Garage, Victory Garage, Fleet Bank Garage, Wall Street Garage

- II. This Ordinance shall take effect January 1, 2005.

December 21, 2004.

In Baord of Mayor and Aldermen.

On motion of Alderman Thibault, duly  
seconded by Alderman Porter, it was voted  
to table the report.



City Clerk

## To the Board of Mayor and Aldermen of the City of Manchester:


The Committee on Lands & Buildings respectfully recommends, after due and careful consideration, that in accordance with RSA 80:80 the Mayor be authorized to dispose of certain property situated at Francis Street, known as Map 0861, Lot 0025-N by executing deeds releasing all rights, title interest, or claims in said property. Said property formerly owned by Francisco R. Jardine was acquired by the City of Manchester by virtue of Tax Collector's deed dated September 2, 1943 and recorded in Hillsborough County Registry of Deeds on September 9, 1943, Volume 1051, Page 0369.

The Committee recommends that said property be disposed of through public auction with a minimum bid to be set at \$14,000.

The Committee advises that it has found such property to be surplus to City needs; and that the Board of Assessors has provided an opinion of value in the range of \$20,000-\$40,000.

The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition and prepare such documents as may be required, and that the Finance Officer be authorized to credit tax deed accounts as deemed necessary.

Respectfully submitted,

  
Clerk of Committee

**From:** Tellier, Steve  
**To:** Johnson, Carol  
**Date:** 12/22/04 9:50AM  
**Subject:** Land & Bldgs Comm: Land West Haven Rd

Carol

I've received confirmation by phone from Mr. Traynor, that he and his neighbor are willing to accept the City's costs to subdivide the small piece of land on West Haven Rd. I've instructed Mr. Traynor to relate this in writing to the City to formalize the process of disposing the land to he and his neighbor. As soon as we receive his letter I assume City staff can begin the subdivision and deeding process. Let me know if I've missed anything on this one.

I'll write a revised report in the land on Francis St identified as Map861 Lot 25-N as soon as the ZBA meeting is held on Jan 6th. This will clearly affect the parcels value.

I've also begun reviewing several requests for reports we've recently received and will act on them shortly. Please let me know as soon as you schedule the next L&B Committee meeting.

Thanks,  
Steve

**CC:** Thibault, Lisa

15

2/17/04 - Tabbed

Associated Realty  
816 Elm Street #186  
Manchester NH 03101  
(603) 668-6900

The Board of Mayor and Alderman  
c/o Manchester City Clerk  
1 City Hall Plaza  
Manchester NH 03101

Dear Members of the Board:

This office represents Mr. Rene Soucy in his attempt to purchase the property on Frances Street in Manchester known and described as upper lot 24 and lower lot 23 map 861.

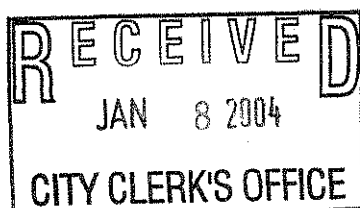
His right to purchase this property is contingent upon his purchasing lot #25 from the City of Manchester. Mr. Soucy wishes to purchase lot #25 for \$10,000.00 from the city and he has notified Mr. Peter Sampo, the only other abutter of his intent.

Kindly please consider Mr. Soucy's offer and notify me of additional steps necessary to complete this purchase.

Thank you in advance for your anticipated help with this matter.

Sincerely

  
Kenneth A DeSchuiteneer





9/16/2003

Buildings and Land Community;

Gentlemen,

I am negotiating to purchase two lot's on Francis street (west) in manchester.

The lot's are #23 and 24 on city map #861.

I am interested in purchasing a lot owned by the city, lot #25 abutting lot 24, or whatever part of it I would need to consolidate with lot #24 in order to build a single family dwelling.

I would keep lot #23 as a dry lot and a buffer to be neighbor friendly.

Thank you for your consideration in this matter

P.S. IF not all of lot #25  
100X100 would do.

484

454

455

STREET

42

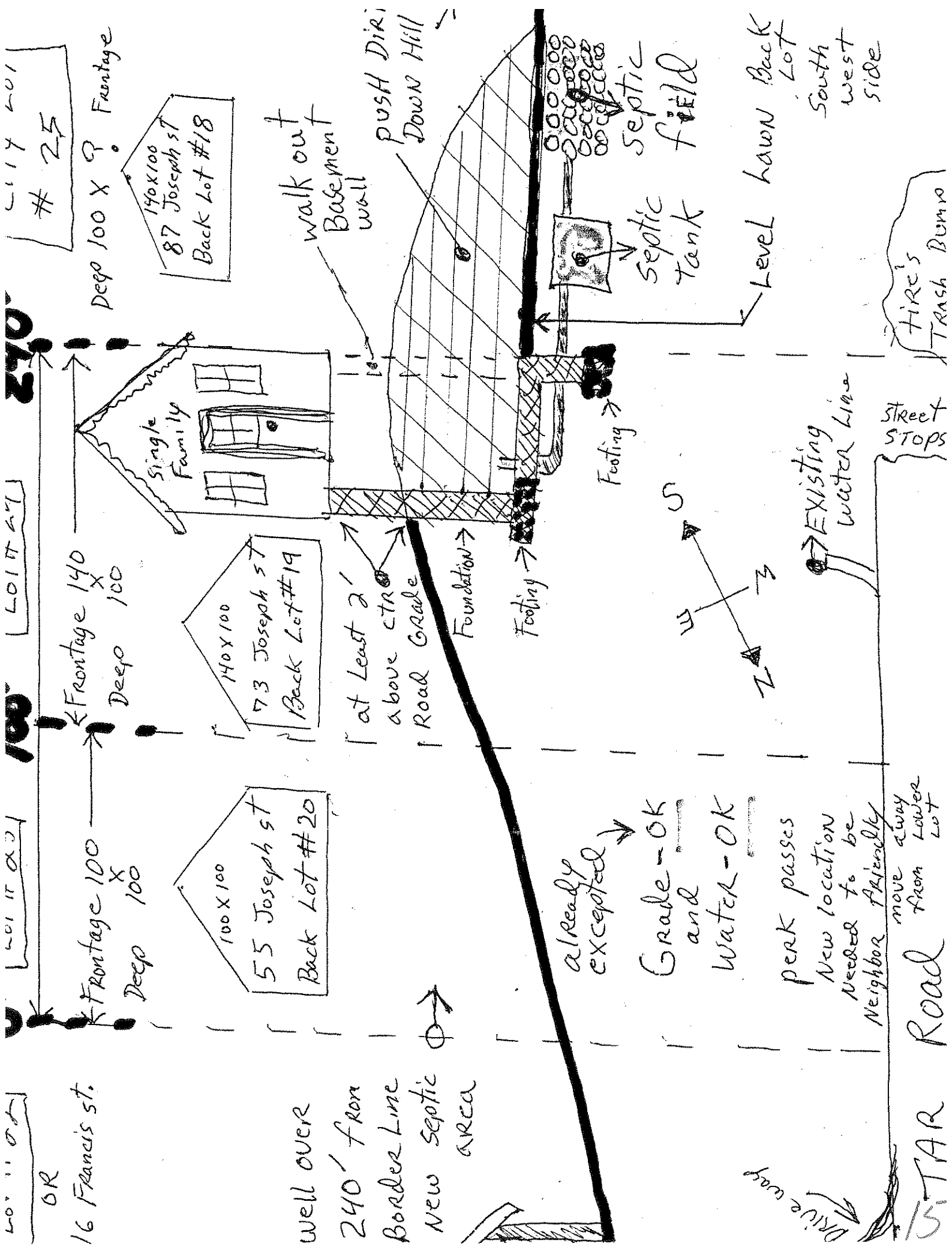
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22 #

Francis

91 #

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17-2000	194	600-2000	195
16-2000	193	601-2000	194
15-2000	192	602-2000	193
14-2000	191	603-2000	192
13-2000	190	604-2000	191



OR

16 Francis St.

well over  
240' from  
Border Line  
new septic  
area

already  
excepted

Grade - OK  
and  
Water - OK

perk passes  
New location  
needed to be  
Neighbor friendly  
move away  
from Lower  
Lot

5 STAR Road

Street  
STOPS

EXISTING  
water line

DRIVE WAY

Footing

Foundation

at Least 2'  
above ctr  
Road Grade

140 X 100  
73 Joseph St  
Back Lot #19

100 X 100  
55 Joseph St  
Back Lot #20

Frontage 140  
Deep 100

Deep 100 X ?  
Frontage

140 X 100  
87 Joseph St  
Back Lot #18

walk out  
Basement  
wall

push DIR  
Down Hill

septic  
tank

septic  
field

Level lawn Back  
Lot

South  
west  
side

Tire's  
Trash Dump

<b>CURRENT OWNER</b> CITY OF MANCHESTER TAX COLLECT		<b>TOPO.</b> 1 Detrimental 9 Unbuildable	<b>UTILITIES</b> 8 None	<b>STRT/ROAD</b> 8 None	<b>LOCATION</b> 1 Urban
<b>SUPPLEMENTAL DATA</b> Account # 3437548 Land Adjust YES Voided NO Total SF 18000 Zone R Frontage/Dep No					
RAD OR CAD CAD = 642 Old LUC Sketch Note V Land Class R Parcel Zip 03102					

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	q/u	SALE PRICE	V.C.
CITY OF MANCHESTER TAX COLLECT						0

EXEMPTIONS		Amount	Code	Description	Number	Amount	Comm. Int.
Total:							

OTHER ASSESSMENTS		Yr.	Code	Assessed Value	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
Total:		2002	9500	8,000	2001	1320	8,000	1991	1300	6,400

APPROVED VALUE SUMMARY		Appraised Bldg. Value (Card)	Appraised XF (B) Value (Bldg)	Appraised OB (L) Value (Bldg)	Appraised Land Value (Bldg)	Special Land Value
Total:		0	0	0	0	8,000

BUILDING PERMIT RECORD		Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments	Date	ID	Cd.	Purpose/Result
Total:											8/11/2000 3/14/1991	RG	14 00	Other Meas & Int Insp.

LAND LINE VALUATION SECTION																
B#	Use Code	Description	Zone	D	Frontage	Depth	Units	Unit Price	I. Factor	S.I.	C. Factor	Nbhd.	Adj.	Notes- Adj./Special Pricing	Adj. Unit Price	Land Value
1	9500	NON TAX R					18,000.00 SF	2.22	1.00	1.00	1.00	520	1.00	SPCL (RES) Notes:	2.22	8,000
							18,000.00 SF									
Total Card Land Units							18,000.00 SF	Parcel Total Land Area:				18,900 SF		Total Land Value		8,000

Net Total Appraised Parcel Value 8,000

## SKETCH

To: Committee on Lands and Buildings  
From: Board of Assessors  
Date: November 6, 2003

Re: (Map 861, Lot 25-N)  
Request to Purchase Property Francis Street

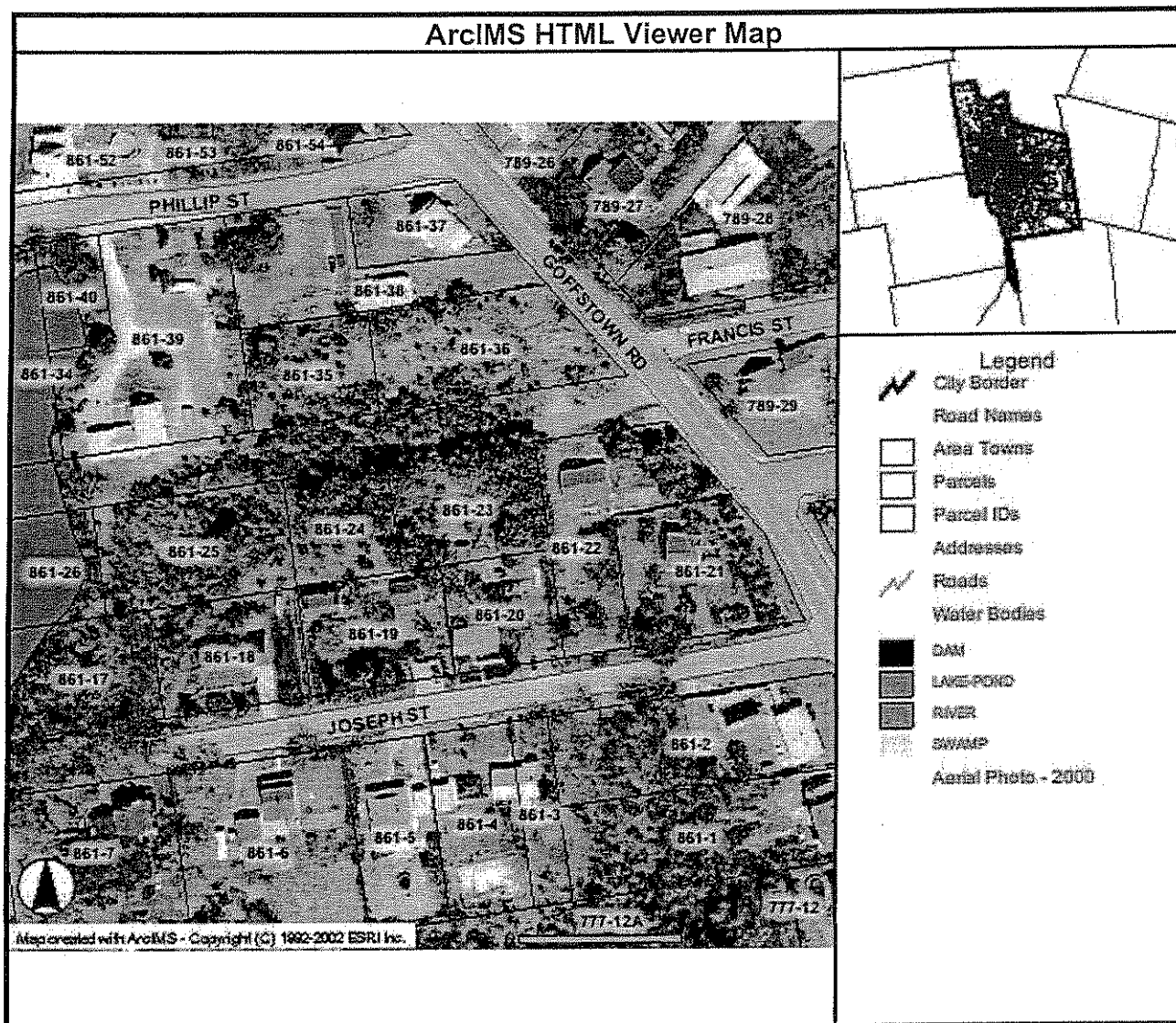
The following is a summary of important facts and the value estimate:

Property Location	Land Francis St. West Side
Assessors Map/Lot	Map 861 , Lot 25N
Property Owner	City of Manchester, NH
Deed Book/Page	Deeded 9/2/43 Book 1051 Page 0369 Recorded 9/9/43
Date Acquired	9/2/43
Improved/Vacant	Vacant
Total Land Area	Square Feet (Acres) 18,000 or .41 Acres
Current Zoning	R-1A
Overlay District	
Easements/Restrictions	
Utilities Available	Water
Total Current Assessment	8,000
Indicated Range of Value/Unit	
Indicated Range of Value	20,000 TO 40,000
Comments	According to the Health Dept if they have water and need septic they need 25,000-sq. ft., if they don't have either than they need 37,500 sq. ft in order to build a house.

Respectfully submitted by the Board of Assessors,

*Thomas C. Nichols*

Thomas C. Nichols, Acting Chairman





City of Manchester  
Office of the Tax Collector

City Hall  
One City Hall Plaza - West  
Manchester, New Hampshire 03101  
(603) 624-6575 (Phone)  
(603) 628-6162 (Fax)

Joan A. Porter  
Tax Collector

## Memorandum

DATE: November 10, 2003  
TO: Land & Building Committee  
FROM: Joan A. Porter, Tax Collector  
RE: **L Francis Street**

As requested, the following contains information regarding the Tax-Deeded property located at: **L Francis St**

Prior Owners: Francisco R Jardine  
Map/Lot: 0861/0025-N  
Lien Date: 09/05/1941  
Deed Date: 09/02/1943  
Recorded Date: 09/09/1943  
Book/Page: 1051/0369  
Back Taxes \$7.06 (**not including interest and costs**)

I do not have any objections to the disposition of this property.

15



11/05/2003 4:25:38 PM

## Special Notes

Tax account ID 203082  
Account description  
Personal Property Acct  
Location address FRANCIS ST  
Owner name CITY OF MANCHESTER TAX COLLECT

[View detail](#)

Description	Free-Form Information
IN DEED STATUS	DEEDED TO TAX 9-02-43 VOL 1051 PAGE 0369
IN DEED STATUS	DATE DEED RECORDED 09-09-43
IN DEED STATUS	OO: JARDINE, FRANCISCO R
IN DEED STATUS	ORIGINAL LIEN DATE: SEP 05, 1941 FOR 1940

OK

Exit

Cancel

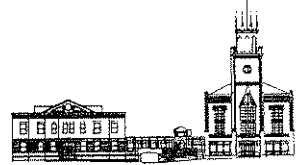


Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

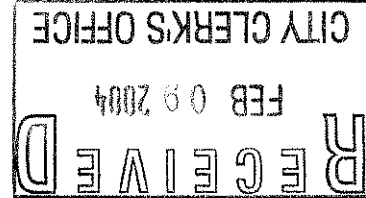
Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Millyard Design Review Committee

February 4, 2003

Committee on Land and Buildings  
Honorable Board of Mayor and Aldermen  
City Hall - One City Hall Plaza  
Manchester, N.H. 03101



RE: *Disposition of city-owned property on Francis Street (Tax Map 861, Lot 25)*

Dear Committee Members:

This is to provide a report pursuant to Section 23½ pertaining to the above-referenced parcel.

The Committee has received a letter from Mr. Rene Soucy who is currently seeking to acquire two adjoining privately owned parcels (TM 861, Lots 23 & 24) located on Francis Street, a private way off the west side of Goffstown Road. Prior to concluding his final acquisition of these two lots, Mr. Soucy has asked the Committee whether or not the City would sell him the city-owned Lot 25, a tax-deeded property which abuts the west end of Lot 24 (refer to the accompanying map). Mr. Soucy has verbally stated that his goal with respect to these purchases would be to

- (a) consolidate the 10,000 s.f. Lot 24 with the 18,000 s.f. Lot 25 in order to create a new 28,000 s.f. parcel which would meet the R-1A zoning district's 1-Family detached dwelling unit 12,500 s.f. minimum lot size requirement by; and
- (b) use Lot 23 as a buffer lot "to be neighbor friendly".

**Surplus Determination:** The Planning Department has reviewed this request and has concluded that there is no public purpose to the City's continuing ownership of Lot 25. As such we would have no objection if Lot 25 were to be declared "surplus" and disposed of in a manner consistent with Section 23 1/2 of the City Ordinances.

### Disposition:

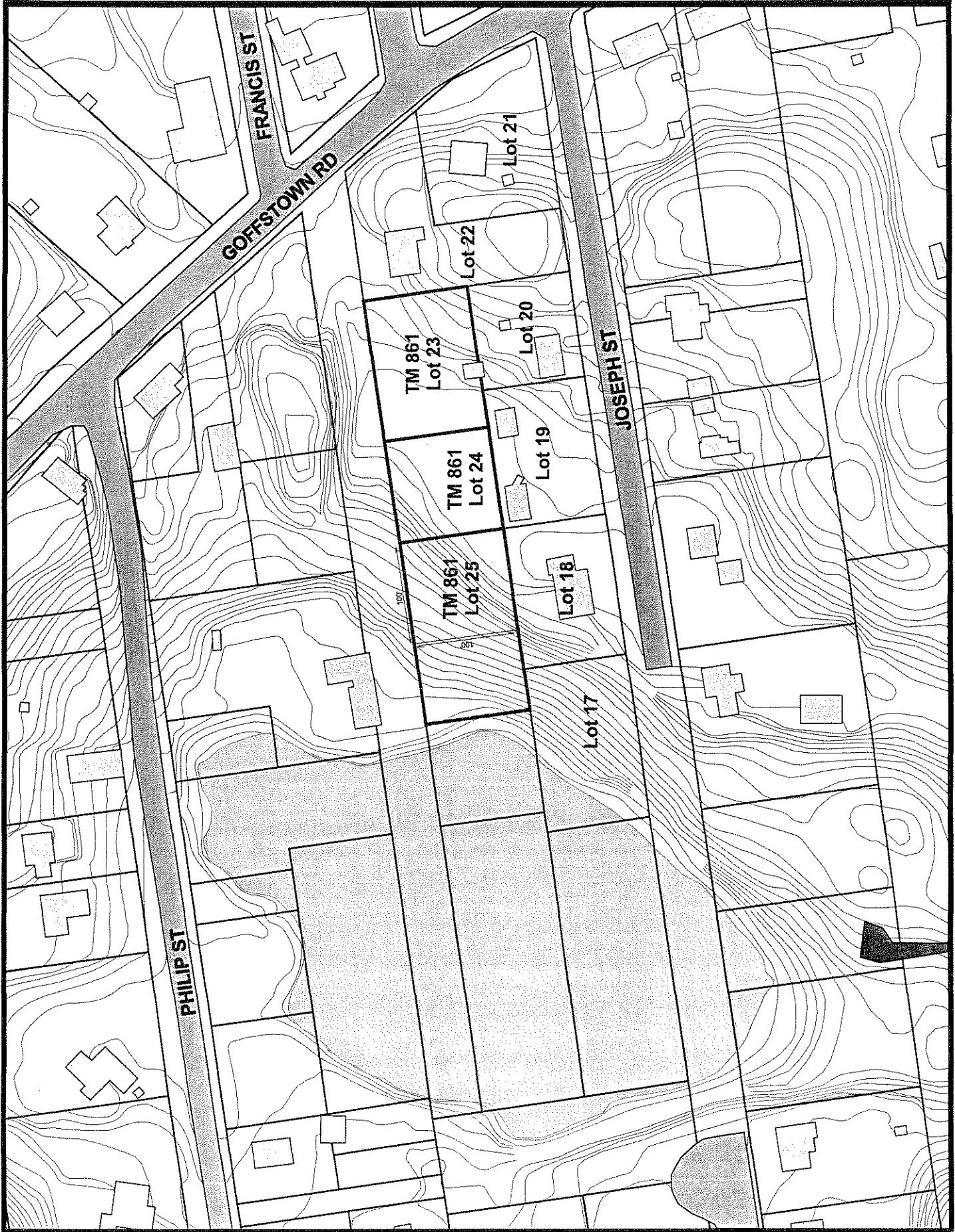
City-owned Lot 25 is located on a private way and is abutted by five separate privately-owned parcels, two of which have a substantial border with Lot 25 (TM 861, Lots 18 & 24). Due to the way the parcels in this area are configured, we feel that it is logical for the City to offer to sell Lot 25 to the owner of either Lot 18 or Lot 24.

Sincerely,

Robert S. MacKenzie  
Director of Planning

One City Hall Plaza, Manchester, New Hampshire 03101  
Phone: (603) 624-6450 FAX: (603) 624-6529  
E-mail: [planning@ci.manchester.nh.us](mailto:planning@ci.manchester.nh.us)  
[www.ci.manchester.nh.us](http://www.ci.manchester.nh.us)

15



Vicinity of Joseph and Francis Streets



City of Manchester  
Office of the Tax Collector

City Hall  
One City Hall Plaza - West  
Manchester, New Hampshire 03101  
(603) 624-6575 (Phone)  
(603) 628-6162 (Fax)

Joan A. Porter  
Tax Collector

## Memorandum

DATE: January 15, 2004  
TO: Land & Building Committee  
FROM: Joan A. Porter, Tax Collector  
RE: **L Francis St**

As requested, the following contains information regarding the Tax-Deeded property located at: **L Francis St**

Prior Owners: Francisco R. Jardine  
Map/Lot: 0861/0025  
Lien Date: 09/05/41  
Deed Date: 09/02/43  
Recorded Date: 09/09/43  
Book/Page: 051/369  
Back Taxes \$7.06 (**not including interest and costs**)

I do not have any objections to the disposition of this property.

This property was tax-deeded prior to 6/25/98 and therefore there are no requirements to notify the former owner.

15

*Cal Street Rd*

317-2.0	300-2.000	309	317-2.0
318-2.0	299-2.000	306	318-2.0
319-2.0	298-2.000	305	319-2.0
320-2.0	297-2.000	304	320-2.0
321-2.0	296-2.000	303	321-2.0
322-2.0	295-2.000	302	322-2.0
323-2.0	294-2.000	301	323-2.0
324-2.0	293-2.000	300	324-2.0
325-2.0	292-2.000	299	325-2.0
326-2.0	291-2.000	298	326-2.0
327-2.0	290-2.000	297	327-2.0
328-2.0	289-2.000	296	328-2.0
329-2.0	288-2.000	295	329-2.0
330-2.0	287-2.000	294	330-2.0
331-2.0	286-2.000	293	331-2.0
332-2.0	285-2.000	292	332-2.0
333-2.0	284-2.000	291	333-2.0
334-2.0	283-2.000	290	334-2.0
335-2.0	282-2.000	289	335-2.0
336-2.0	281-2.000	288	336-2.0
337-2.0	280-2.000	287	337-2.0
338-2.0	279-2.000	286	338-2.0
339-2.0	278-2.000	285	339-2.0
340-2.0	277-2.000	284	340-2.0
341-2.0	276-2.000	283	341-2.0
342-2.0	275-2.000	282	342-2.0
343-2.0	274-2.000	281	343-2.0
344-2.0	273-2.000	280	344-2.0
345-2.0	272-2.000	279	345-2.0
346-2.0	271-2.000	278	346-2.0
347-2.0	270-2.000	277	347-2.0
348-2.0	269-2.000	276	348-2.0
349-2.0	268-2.000	275	349-2.0
350-2.0	267-2.000	274	350-2.0
351-2.0	266-2.000	273	351-2.0
352-2.0	265-2.000	272	352-2.0
353-2.0	264-2.000	271	353-2.0
354-2.0	263-2.000	270	354-2.0
355-2.0	262-2.000	269	355-2.0
356-2.0	261-2.000	268	356-2.0
357-2.0	260-2.000	267	357-2.0
358-2.0	259-2.000	266	358-2.0
359-2.0	258-2.000	265	359-2.0
360-2.0	257-2.000	264	360-2.0
361-2.0	256-2.000	263	361-2.0
362-2.0	255-2.000	262	362-2.0
363-2.0	254-2.000	261	363-2.0
364-2.0	253-2.000	260	364-2.0
365-2.0	252-2.000	259	365-2.0
366-2.0	251-2.000	258	366-2.0
367-2.0	250-2.000	257	367-2.0
368-2.0	249-2.000	256	368-2.0
369-2.0	248-2.000	255	369-2.0
370-2.0	247-2.000	254	370-2.0
371-2.0	246-2.000	253	371-2.0
372-2.0	245-2.000	252	372-2.0
373-2.0	244-2.000	251	373-2.0
374-2.0	243-2.000	250	374-2.0
375-2.0	242-2.000	249	375-2.0
376-2.0	241-2.000	248	376-2.0
377-2.0	240-2.000	247	377-2.0
378-2.0	239-2.000	246	378-2.0
379-2.0	238-2.000	245	379-2.0
380-2.0	237-2.000	244	380-2.0
381-2.0	236-2.000	243	381-2.0
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388-2.0	229-2.000	236	388-2.0
389-2.0	228-2.000	235	389-2.0
390-2.0	227-2.000	234	390-2.0
391-2.0	226-2.000	233	391-2.0
392-2.0	225-2.000	232	392-2.0
393-2.0	224-2.000	231	393-2.0
394-2.0	223-2.000	230	394-2.0
395-2.0	222-2.000	229	395-2.0
396-2.0	221-2.000	228	396-2.0
397-2.0	220-2.000	227	397-2.0
398-2.0	219-2.000	226	398-2.0
399-2.0	218-2.000	225	399-2.0
400-2.0	217-2.000	224	400-2.0
401-2.0	216-2.000	223	401-2.0
402-2.0	215-2.000	222	402-2.0
403-2.0	214-2.000	221	403-2.0
404-2.0	213-2.000	220	404-2.0
405-2.0	212-2.000	219	405-2.0
406-2.0	211-2.000	218	406-2.0
407-2.0	210-2.000	217	407-2.0
408-2.0	209-2.000	216	408-2.0
409-2.0	208-2.000	215	409-2.0
410-2.0	207-2.000	214	410-2.0
411-2.0	206-2.000	213	411-2.0
412-2.0	205-2.000	212	412-2.0
413-2.0	204-2.000	211	413-2.0
414-2.0	203-2.000	210	414-2.0
415-2.0	202-2.000	209	415-2.0
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418-2.0	199-2.000	206	418-2.0
419-2.0	198-2.000	205	419-2.0
420-2.0	197-2.000	204	420-2.0
421-2.0	196-2.000	203	421-2.0
422-2.0	195-2.000	202	422-2.0
423-2.0	194-2.000	201	423-2.0
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425-2.0	192-2.000	199	425-2.0
426-2.0	191-2.000	198	426-2.0
427-2.0	190-2.000	197	427-2.0
428-2.0	189-2.000	196	428-2.0
429-2.0	188-2.000	195	429-2.0
430-2.0	187-2.000	194	430-2.0
431-2.0	186-2.000	193	431-2.0
432-2.0	185-2.000	192	432-2.0
433-2.0	184-2.000	191	433-2.0
434-2.0	183-2.000	190	434-2.0
435-2.0	182-2.000	189	435-2.0
436-2.0	181-2.000	188	436-2.0
437-2.0	180-2.000	187	437-2.0
438-2.0	179-2.000	186	438-2.0
439-2.0	178-2.000	185	439-2.0
440-2.0	177-2.000	184	440-2.0
441-2.0	176-2.000	183	441-2.0
442-2.0	175-2.000	182	442-2.0
443-2.0	174-2.000	181	443-2.0
444-2.0	173-2.000	180	444-2.0
445-2.0	172-2.000	179	445-2.0
446-2.0	171-2.000	178	446-2.0
447-2.0	170-2.000	177	447-2.0
448-2.0	169-2.000	176	448-2.0
449-2.0	168-2.000	175	449-2.0
450-2.0	167-2.000	174	450-2.0
451-2.0	166-2.000	173	451-2.0
452-2.0	165-2.000	172	452-2.0
453-2.0	164-2.000	171	453-2.0
454-2.0	163-2.000	170	454-2.0
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462-2.0	155-2.000	162	462-2.0
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485-2.0	132-2.000	139	485-2.0
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488-2.0	129-2.000	136	488-2.0
489-2.0	128-2.000	135	489-2.0
490-2.0	127-2.000	134	490-2.0
491-2.0	126-2.000	133	491-2.0
492-2.0	125-2.000	132	492-2.0
493-2.0	124-2.000	131	493-2.0
494-2.0	123-2.000	130	494-2.0
495-2.0	122-2.000	129	495-2.0
496-2.0	121-2.000	128	496-2.0
497-2.0	120-2.000	127	497-2.0
498-2.0	119-2.000	126	498-2.0
499-2.0	118-2.000	125	499-2.0
500-2.0	117-2.000	124	500-2.0

FRANCIS STREET

FRANCIS

208-2.000	347	227-2.000	341	207-2.000	343	206-2.000	346	205-2.000	347	204-2.000	352	203-2.000	351	202-2.000	354	201-2.000	355	200-2.000	358	199-2.000	359	198-2.000	362	197-2.000	363	196-2.000	366	195-2.000	367	194-2.000	370	193-2.000	371	192-2.000	374	191-2.000	375	190-2.000	378	189-2.000	379	188-2.000	382	187-2.000	383	186-2.000	386	185-2.000	387	184-2.000	390	183-2.000	391	182-2.000	394	181-2.000	395	180-2.000	398	179-2.000	401	178-2.000	402	177-2.000	403	176-2.000	406	175-2.000	407	174-2.000	410	173-2.000	411	172-2.000	414	171-2.000	415	170-2.000	418	169-2.000	419	168-2.000	420	167-2.000	421	166-2.000	422	165-2.000	423	164-2.000	424	163-2.000	425	162-2.000	426	161-2.000	427	160-2.000	428	159-2.000	429	158-2.000	430	157-2.000	431	156-2.000	432	155-2.000	433	154-2.000	434	153-2.000	435	152-2.000	436	151-2.000	437	150-2.000	438	149-2.000	439	148-2.000	440	147-2.000	441	146-2.000	442	145-2.000	443	144-2.000	444	143-2.000	445	142-2.000	446	141-2.000	447	140-2.000	448	139-2.000	449	138-2.000	450	137-2.000	451	136-2.000	452	135-2.000	453	134-2.000	454	133-2.000	455	132-2.000	456	131-2.000	457	130-2.000	458	129-2.000	459	128-2.000	460	127-2.000	461	126-2.000	462	125-2.000	463	124-2.000	464	123-2.000	465	122-2.000	466	121-2.000	467	120-2.000	468	119-2.000	469	118-2.000	470	117-2.000	471	116-2.000	472	115-2.000	473	114-2.000	474	113-2.000	475	112-2.000	476	111-2.000	477	110-2.000	478	109-2.000	479	108-2.000	480	107-2.000	481	106-2.000	482	105-2.000	483	104-2.000	484	103-2.000	485	102-2.000	486	101-2.000	487	100-2.000	488	99-2.000	489	98-2.000	490	97-2.000	491	96-2.000	492	95-2.000	493	94-2.000	494	93-2.000	495	92-2.000	496	91-2.000	497	90-2.000	498	89-2.000	499	88-2.000	500	87-2.000	501	86-2.000	502	85-2.000	503	84-2.000	504	83-2.000	505	82-2.000	506	81-2.000	507	80-2.000	508	79-2.000	509	78-2.000	510	77-2.000	511	76-2.000	512	75-2.000	513	74-2.000	514	73-2.000	515	72-2.000	516	71-2.000	517	70-2.000	518	69-2.000	519	68-2.000	520	67-2.000	521	66-2.000	522	65-2.000	523	64-2.000	524	63-2.000	525	62-2.000	526	61-2.000	527	60-2.000	528	59-2.000	529	58-2.000	530	57-2.000	531	56-2.000	532	55-2.000	533	54-2.000	534	53-2.000	535	52-2.000	536	51-2.000	537	50-2.000	538	49-2.000	539	48-2.000	540	47-2.000	541	46-2.000	542	45-2.000	543	44-2.000	544	43-2.000	545	42-2.000	546	41-2.000	547	40-2.000	548	39-2.000	549	38-2.000	550	37-2.000	551	36-2.000	552	35-2.000	553	34-2.000	554	33-2.000	555	32-2.000	556	31-2.000	557	30-2.000	558	29-2.000	559	28-2.000	560	27-2.000	561	26-2.000	562	25-2.000	563	24-2.000	564	23-2.000	565	22-2.000	566	21-2.000	567	20-2.000	568	19-2.000	569	18-2.000	570	17-2.000	571	16-2.000	572	15-2.000	573	14-2.000	574	13-2.000	575	12-2.000	576	11-2.000	577	10-2.000	578	9-2.000	579	8-2.000	580	7-2.000	581	6-2.000	582	5-2.000	583	4-2.000	584	3-2.000	585	2-2.000	586	1-2.000	587	0-2.000	588	0-2.000	589	0-2.000	590	0-2.000	591	0-2.000	592	0-2.000	593	0-2.000	594	0-2.000	595	0-2.000	596	0-2.000	597	0-2.000	598	0-2.000	599	0-2.000	600	0-2.000
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July 27, 2004

City Clerk's Office  
City of Manchester  
One City Hall Plaza  
Manchester, NH 03101

Dear Sir:

I live on 87 Joseph Street in Manchester. My property abuts city lot map 861 lot 25. I wish to purchase this lot should the city put it up for sale. I am willing to pay \$15,000 for this lot.

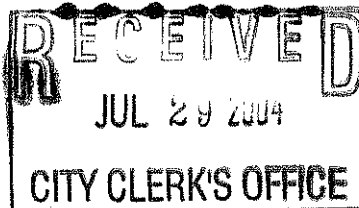
Thank you for consideration.

Sincerely,

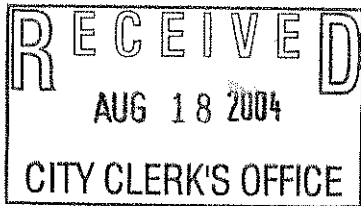


Peter V. Sampo  
87 Joseph Street  
Manchester, NH 03102

603-668-5944



15



Associated Realty and Recovery Service  
Kenneth DeSchuiteneer  
816 Elm St. #186  
Manchester, NH 03101  
Phone # (603)668-6900

Alderman Henry Thibault  
Chairman Land and Building Committee  
Manchester Board of Mayor and Alderman  
1 City Hall Plaza  
Manchester, NH 03101

Re: Purchase of lot 25 Francis St.

Dear Alderman Thibault

Reference is made to the land a building committee meeting which Mr. Rene Soucy presented plans to purchase lot #25 on Francis St. from the city of Manchester.

It was determined that the lot was surplus and a proper value would be placed on it and the land would be offered for sale to the abutters.

The only abutter to this property is Mr. Sampo and lots 23 and 24 which Mr. Soucy has equitable title in.

At the meeting a number of Francis St. residents testified as to their objections to Mr. Soucy being allowed to purchase lot 25 and being allowed to build on lots 23, 24 and 25.

Mr. Leon LaFreniere of the city of Manchester building department also testified as to lots 23, 24 and 25 combined being unbuildable as of the illegal pitch of the property. He also stated that lot 20 was non-conforming without 23 and 24 and therefor purchased illegally.

Weil it seems it is more illegal then previously thought as the enclosed pictures will show.

The last building permit pulled for lot 20 was by Mr. John Freatas for electrical work over 35 years ago. The enclosed pictures show the lot 20 property, when it was sold to Mr. Lawrence and Mr. Lawrence's property now.

The building is twice as big now, and the garage is triple in size and if lot 20 was non-conforming when Mr. Lawrence purchased it, it is definitely non-conforming now. Mr. LaFreniere is aware of the exterior change in the Lawrence property, and in order to rectify this situation, Mr. Lawrence needs room for his septic.

Mr. Soucy will give Lawrence an easement on lot 23 for the septic thus making lot 20

15

conforming. The city must then set the guidelines to allow Mr. Soucy to build on 23, 24 and 25 combined to rectify the whole situation.

Or as an alternative have Mr. Lawrence restore his property to its original state when he purchased it.

Surely no permits would be approved on a non-conforming lot.

In summary I suggest that Mr. Soucy be allowed to purchase lot 25 and combine lot 23, 24 and 25 to make them buildable and grant the building permit to do so.

Then Mr. Soucy would give Mr. Lawrence an easement for his septic to make his lot conforming.

Then the building department can also issue permits to Mr. Lawrence for the work he has already done illegally and reassess his property.

Two wrongs don't make a right. This mess must be resolved.

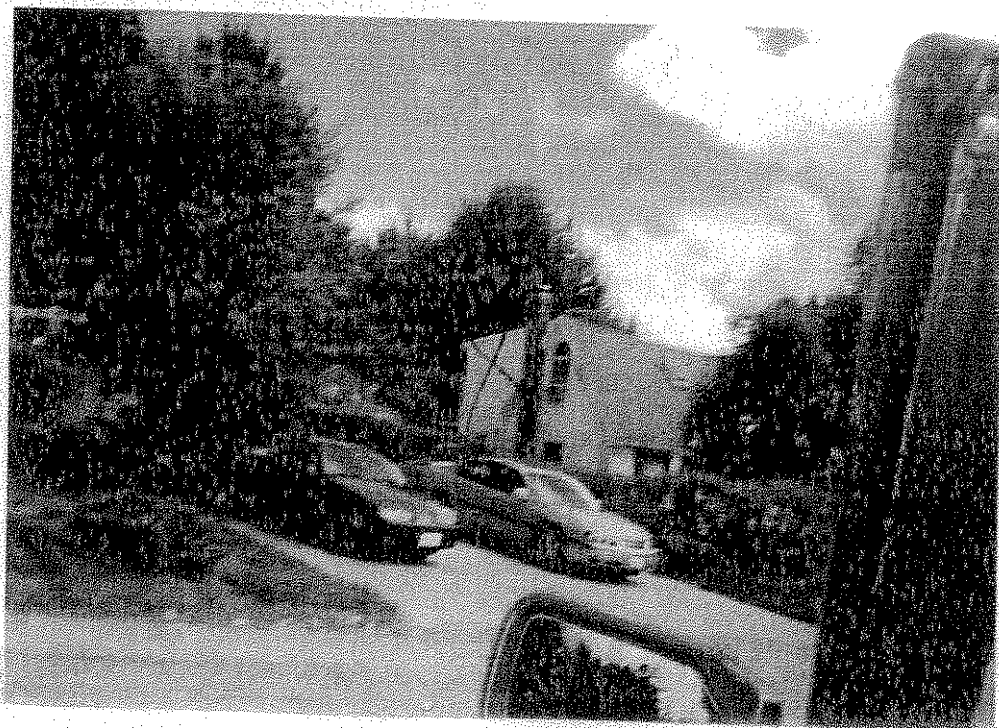
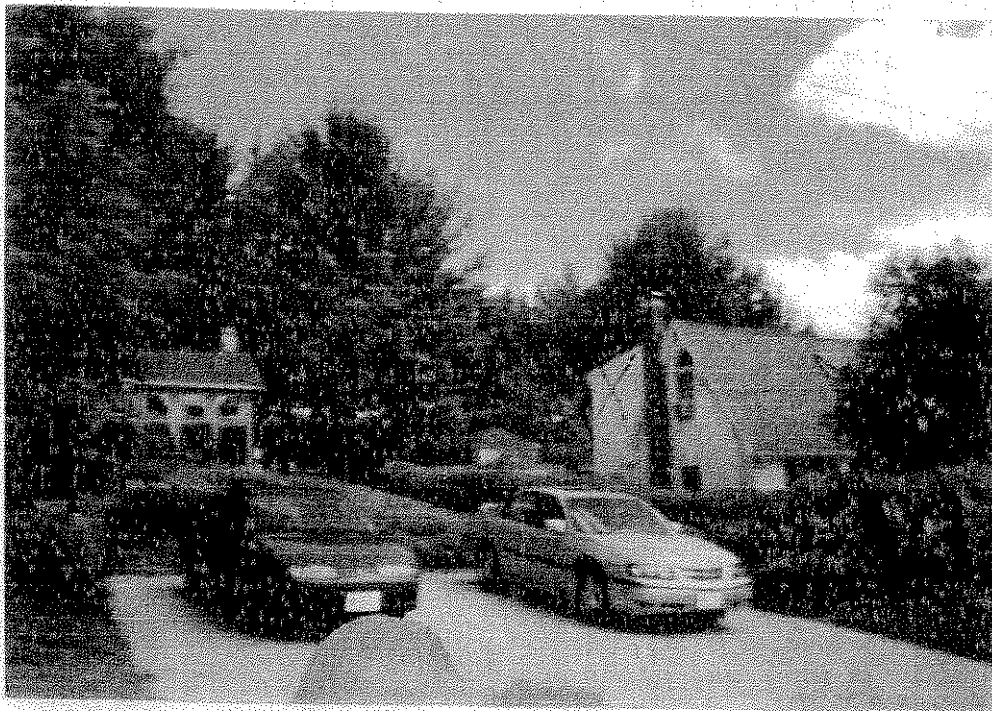
Sincerely,

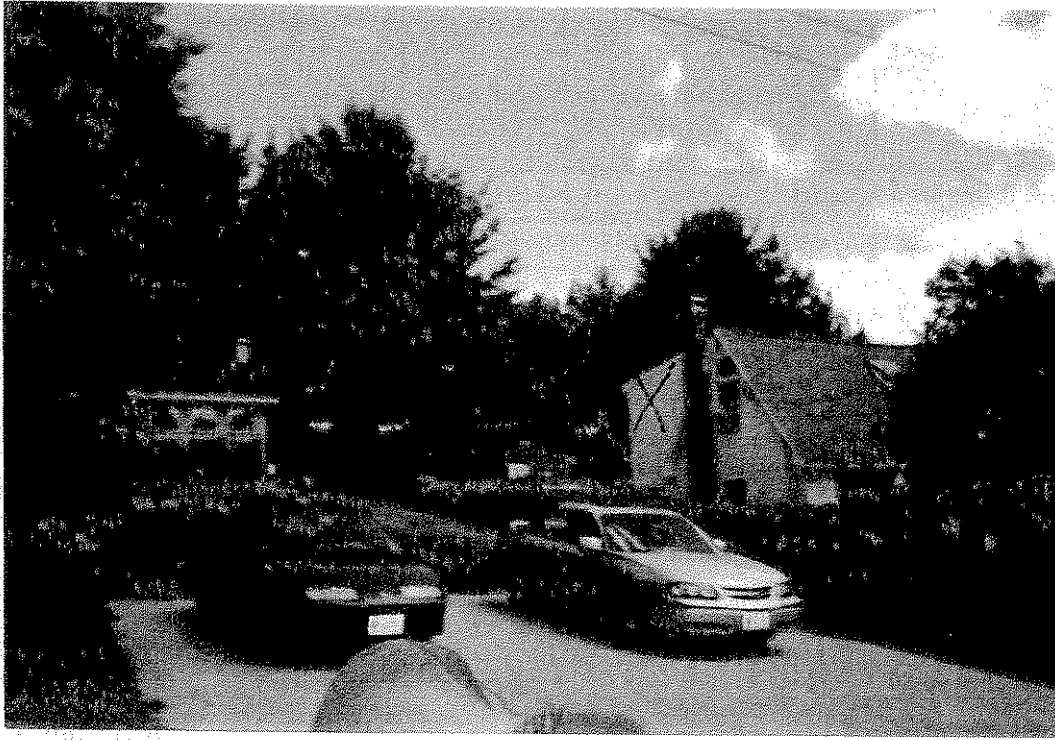


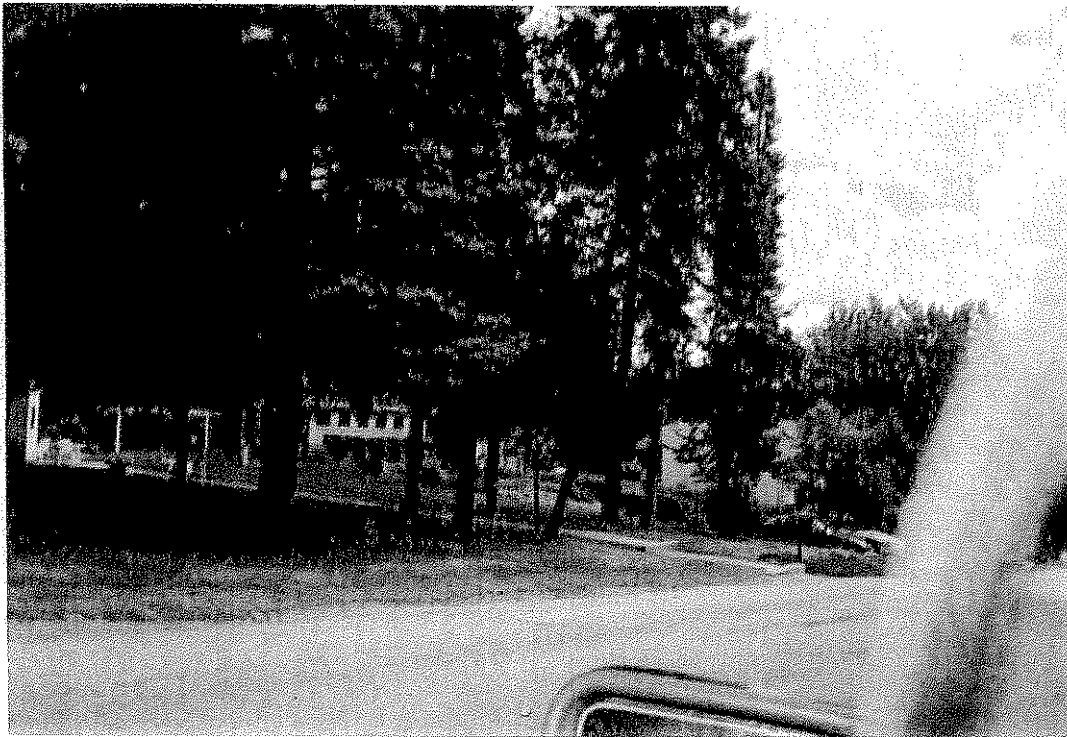
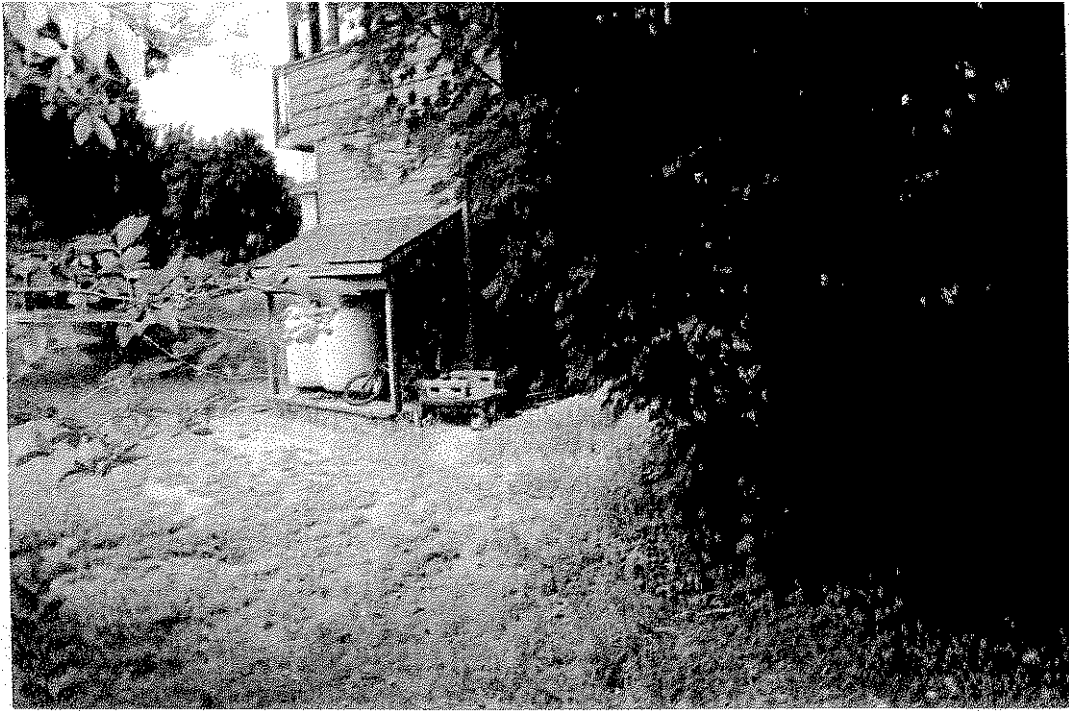
Kenneth DeSchuiteneer

CC. Board of Mayor and Alderman  
City of Manchester Building Department  
JDF Trust  
c/o John D Freatas Jr.  
File for future reference









House on Lot 20 When Sold To Lawrence

# 80,000 PROFESSIONALS STRONG

## OPEN HOUSE — SUNDAY 1-4



122 Moose Club Park Rd.  
Goffstown

**MINT COND.** 3 BD Gambrel  
w/beach rights to Pista-  
cagog River. Over 1800  
S/F ..... \$94,900

**DIR.:** Mast Rd. to right on Moose Club Park, go approx. 1/2  
mi. down hill. Home on right.

### HOME OF THE WEEK

**BACK ON MARKET.** Huge Ranch. Only 2 yrs. new. Open  
concept. 2-car gar on 2+ acres. Now..... **\$86,900**

**GOFFSTOWN:** Colonial. Great for large fam. New custom  
kit., formal din. rm, hardwood flrs, fam. rm., farmer's porch. 2-car  
gar, in-ground pool..... **\$134,900**

**PERFECT:** 1st time buyer home. Ranch w/gar. Pinardville.  
Live rent free for same price as rent..... **\$74,900**

**NEW BOSTON:** Quality Cape, 2-car attach'd gar., on 2 acres  
in Whipperwill sub-div..... **\$119,900**

**LITCHFIELD:** Beaut. open concept in exc. fam. neighbor-  
hood. Just reduced. Now..... **\$108,000**

**WEARE:** Beaut. tiered Cape on country acre. Choose your  
colors..... **\$39,900**

**WEARE:** Colonial of your dreams. Nearly 2000 SF. New con-  
str., 2-car gar..... **\$115,000**

**WEARE:** Huge Colonial, 2-car gar., beaut. sub-div., views  
abound..... **\$118,000**

**WEARE:** Huge 4 yr. old Cape, light & bright on 1.8 acres  
..... **\$79,900**

**GOFFSTOWN:** Hip roofed Colonial, 2-car gar., Goffstown's  
finest sub-div., beautiful view..... **\$139,900**

**GOFFSTOWN:** Gambrel, 7 rm., 1 1/2 baths, 2 acres, 2-car gar.,  
Wallace Rd. area..... **\$121,900**

**GOFFSTOWN:** Just listed. Delightful older Cape, compl. re-  
done on 1+ acre..... **\$89,900**

**BEDFORD:** New constr., in great neighborhood, 2300 S/F,  
cul-de-sac, easy commute to 83..... **\$199,500**

**BEDFORD:** New constr. to be built in great Bedford loc. on  
cul-de-sac, master suite, easy commute..... **\$239,500**

**COUNTRY** log cabin. Open concept, 12 acres, 2-car gar., a  
delightful place to call home..... **\$114,900**

**MANCHESTER:** 6-family, Hevey St..... **\$105,000**

**NORTH END:** Beautiful custom 4 yr. new home. Open con-  
cept European kit. you'll fall in love with, master suite, whirl-  
pool bath & dressing area, central air, central vac., sec. sys-  
tem, fpic'd liv. rm, 2-car gar..... **\$139,500**

**COUNTRY CHARM:** 4 BD Cape, hardw. flrs, skylights, din.  
rm, 2-car gar., pool, outskirts, 5 min. to Manch..... **\$119,900**

**HIGH VIEW ESTATES:** Views, Views, Views from these gor-  
geous Colonials featuring 2000 S/F, 2-car gar., 2 1/2 baths. Still  
time to pick colors. Colonial under constr..... **\$154,900**

**WATERFRONT** Ranch on 3/4 acre with 380 feet on water.  
Compl. updated with 1-car gar..... **\$99,900**

**DUNBARTON:** 1800 S/F Gambrel at this price! Beaut. stone  
wall boundaries, wonderful country loc..... **\$99,900**

**ONE OF** Goffstown's prettiest properties. Completely done  
Colonial, over 2200 S/F, 2 acres. Seller wants offer. **\$127,000**

**WEARE:** Antique Colonial in wonderful condition. Huge  
rooms, setting of 3 pretty acres, wide pine floors. Reduced!  
Now..... **\$129,900**

### LAND

**GOFFSTOWN:** beautiful views. Owner financing..... **\$39,900**

**BEDFORD:** Desirable Randolph Commons, pond, views,  
septic..... **\$55,000**

**GOFFSTOWN:** Gorgeous view..... **\$49,900**

**WEARE:** Gorgeous view lot in exec. sub-div..... **\$24,900**

**NEW BOSTON:** Whipperwill Estates..... **\$22,500**

624-6855

## WALK TO TOWN

convenience in this  
Goffstown 3 bdrm  
home, large backyard  
for children, garden-  
ing, etc., attached  
barn..... **\$79,000**

529-2121

**WHEEL CHAIR AC-  
CESS** to this well  
maintained manufac-  
tured home w/porch  
and shed on own 1 ±  
AC lot, only about 7  
mi. to Manchester

\$35,000

529-2121

## COUNTRY LIVING

on 5 ± AC mini farm  
waiting for your family  
to enjoy, 3 bdrm home  
w/fireplaced fam. rm.,  
2-car garage w/heated  
rm over..... **\$89,900**

529-2121

**OVER 5 1/2 ACRES**  
w/this passive solar  
home w/cathedral  
ceiling, FHW heat,  
walkout finished lower  
level, large attic and  
more..... **\$89,900**

529-2121

**OVER 2 ACRES OF  
LAND** with this fully  
appliance home,  
pleasant living in the  
country, ideal starter  
or retirement home at  
low price..... **\$45,000**

529-2121

## OPEN HOUSES 1-3 P.M.



558 Amherst St.

**MOVE RIGHT IN** this mint  
6 rm Split in east area, 3  
bdrms, gas heat, pool, lg.  
deck..... **\$87,000**

**Directions:** Go East on Ha-

nover, left on Alfred St. to Amherst.



3802 Brown Ave.

**TURN OF THE CEN-  
TURY** Colonial w/8+ rms,  
4-5 bdrms, 2 baths, hwd  
flrs, encl. porches

**\$104,900**

**Directions:** Go South on  
Brown Ave., left Old Brown Ave. home on RT.

## NEW LISTINGS



**PERFECT STARTER!** Over-  
sized expansion Cape w/2  
bdrms, hwd flrs, plaster walls,  
brzwy & gar., oil heat, West  
..... **\$85,900**



**SUPER RANCH!** Northend  
5+ rm. home w/3 bdrms,  
fpic'd liv. rm, fam. rm, det. gar.,  
new oil heat. Location!!!  
..... **\$97,900**



**QUIET WEST** area features  
this 4 rm Cape, 3 bdrms, gar.  
under, dead end, hwd flrs,  
great for garden lovers  
..... **\$79,900**



**PINARDVILLE** oversized  
Ranch w/lg bdrms, hwd flrs,  
att. den, fin. playrm, encl.  
patio, carport, exc. starter  
..... **\$84,900**

## 60'S SPECIALS!!!



**CHARMING** West Cape w/6  
rms, 3 bdrms, hwd flrs, nat.  
wood interior, formal din. rm,  
det. gar..... **\$69,900**



**WELL-KEPT** 2-fam. w/5 rms, 2-  
3 bdrms, each apt., 3 garages,  
exec. owner occupied, good  
size yard, West..... **\$64,900**



**HANDYMAN SPECIAL!** 2-  
story home w/newer 2nd flr.,  
oversized yard, corner lot, det.  
gar., lots of potential. **\$62,500**



**PRICED TO SELL!** Just va-  
cated New Englander w/3 bdrms,  
all good size rms, 2 porches,  
convenient loc..... **\$69,900**

668-5100



Ledgewood  
Goffstown  
624-6855

Abbiss  
Weare  
529-2121

Dumont & Assoc.  
Manchester  
668-5100

15